



*[Handwritten signature]*  
**Atty Docket D-2958RE**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reissue Application of  
Inventor(s): Dennis E. Parham

Merchandising Display Track Device Of  
Multiple-Piece Construction

Serial No.: 10/705,666

Confirmation No.: 5356

Filed: November 10, 2003

Commissioner for Patents  
Alexandria, VA 22313-1450

Sir:

Group Art Unit: 3634  
Examiner: Novosad, J. E.

I hereby certify that this correspondence is being  
deposited today with the United States Postal Services  
as priority mail in an envelope addressed to:

MAIL STOP Reissue  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

*John L. James*

Name: John L. James  
Registration No. 28,724  
Date: July 23, 2010

**TRANSMITTAL OF DOCUMENTS**

This is a response to a request for documents for the reconstruction of Application Serial No. 08/967,381 which is the parent of the above-identified reissue application.

Transmitted herewith are copies of correspondence sent to Applicant and copies of correspondence sent by Applicant in Application Serial No. 08/967,381. The documents transmitted herewith include copies of Office Actions sent to Applicant and responses and amendments filed by Applicant during examination and prosecution of the application.

The information herein was retrieved from files in the custody of the undersigned Attorney of Record and are believed to be accurate copies and complete copies of papers in said files, including notations made by said Attorney of Record. While the documents submitted herewith are accurate copies and complete copies of papers in said files, these documents do not constitute all the papers filed in the application. Omitted papers do not exist in said files.

Respectfully submitted,

*John L. James*

John L. James  
Attorney for Applicant(s)  
Registration No. 28,724

Atty Docket No. D-2958RE  
Serial No.: 10/705,666  
Transmittal of Documents  
Telephone: 678-520-7665



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/967,381	12/04/2001	6325221	D-2958	6988

7590                    11/16/2001

John L. James  
PO Box 2025  
Marietta, GA 30061

## ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

### Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The patent term adjustment is 0 day(s), and will be printed on the front page of the patent.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system. (<http://pair.uspto.gov>)

#### APPLICANT(S):

DENNIS E. PARHAM, KENNESAW, GA;

**PART B—ISSUE FEE TRANSMITTAL**

• Complete and mail this form, together with applicable fees, to: **Box ISSUE FEE  
Assistant Commissioner for Patents  
Washington, D.C. 20231**

**MAILING INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

JOHN L. JAMES  
PO BOX 2025  
MARIETTA GA 30061



PM82/0911

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

**Certificate of Mailing**

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

<i>JOHN L. JAMES</i>	(Depositor's name)
<i>John L. James</i>	(Signature)
<i>October 10, 2001</i>	(Date)

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/907,381	11/00/97	017	TRAN, K	3634 09/11/01
First Named Applicant	PARHAM,		35 USC 154(b) term ext.	0 Days.

**TITLE OF INVENTION** MERCHANDISING DISPLAY TRACK DEVICE OF MULTIPLE-PIECE CONSTRUCTION

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEES DUE	DATE DUE
3-D-2859	211-059.200	L86	UTILITY	YES	\$620.00	12/11/01

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

"Fee Address" indication (or "Fee Address" Indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)  
**PLEASE NOTE:** Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE **DISPLAY INDUSTRIES, LLC**

(B) RESIDENCE: (CITY & STATE OR COUNTRY) **SMYRNA, GA 30080**

Please check the appropriate assignee category indicated below (will not be printed on the patent)

individual  corporation or other private group entity  government

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Sign. Date)

*John L. James*

(Date)  
*10/10/01*

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMIT THIS FORM WITH FEE



# UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO/TITLE
08/967,381	11/08/1997	DENNIS E. PARHAM	D-2958



John L. James  
PO Box 2025  
Marietta, GA 30061

CONFIRMATION NO. 6988



\*OC00000006574255\*

Title: MERCHANTISING DISPLAY TRACK DEVICE OF MULTIPLE-PIECE CONSTRUCTION

Date Mailed: 09/21/2001

## NOTICE OF PUBLICATION FEE DUE

The above-identified application was filed (including as a Continued Prosecution Application) on or after November 29, 2000 and a non-publication request in compliance with 37 CFR 1.213 was not included with the application on filing. Since the application has been allowed, a publication fee is due.

The fee due is \$300.00. No small entity discount is available. See 37 CFR 1.18(d).

The reply to this notice should be mailed to Box ISSUE FEE, Commissioner for Patents, Washington D.C. 20231.

The publication fee must be submitted within **THREE MONTHS** from the mailing date of this notice or the application may be regarded as abandoned. No extensions of time under 37 CFR 1.136(a) or (b) are available. A reply must be filed to this notice, even if applicant does not anticipate that the application will be published (e.g., because the patent has issued and the projected publication date is more than a month after the issue date of the patent). A proper reply to this notice in such a situation would be a statement that no fee is now due, citing 37 CFR 1.211(e).

If publication of the application does not occur and applicant requests a refund, any publication fee paid will be refunded. See 37 CFR 1.211(e).

For further information about this notice, see the questions and answers posted at:  
<http://www.uspto.gov/web/offices/dcom/olia/aipa/infoexch.htm#CB>. Questions relating to this Notice should be directed to the Customer Service Center, Office of Patent Publication at: (703) 308-6789 and 1-888-786-0101.

**A copy of this notice should be returned with any reply.**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Inventor(s):

Dennis E. Parham

Date of Notice Of Allowance:

September 11, 2001

Merchandising Display Track Device  
Of Multiple-Piece Construction

Serial No. 08/967,381

Filed: November 8, 1997

Group Art Unit: 3634

Examiner: Tran, Khoa.

Issue Batch: L86

I hereby certify that this correspondence is  
being deposited today with the United States  
Postal Services as first class mail in an  
envelope addressed to:

Box Issue Fee

Commissioner for Patents  
Washington, DC 20231

John L. James

Name: John L. James  
Registration No. 28,724  
Date: September 18, 2001

Official Draftperson  
Honorable Commissioner for Patents  
Washington, D.C. 20231

Sir:

**TRANSMITTAL OF FORMAL DRAWINGS**

Transmitted herewith in triplicate are nine (9) sheets of formal  
drawings for the above identified application.

Respectfully submitted,

John L. James

John L. James  
Attorney for Applicant(s)  
Registration No. 28,724

Serial No.: 08/967,381  
Telephone: 770-792-0360  
Facsimile: 770-792-0360

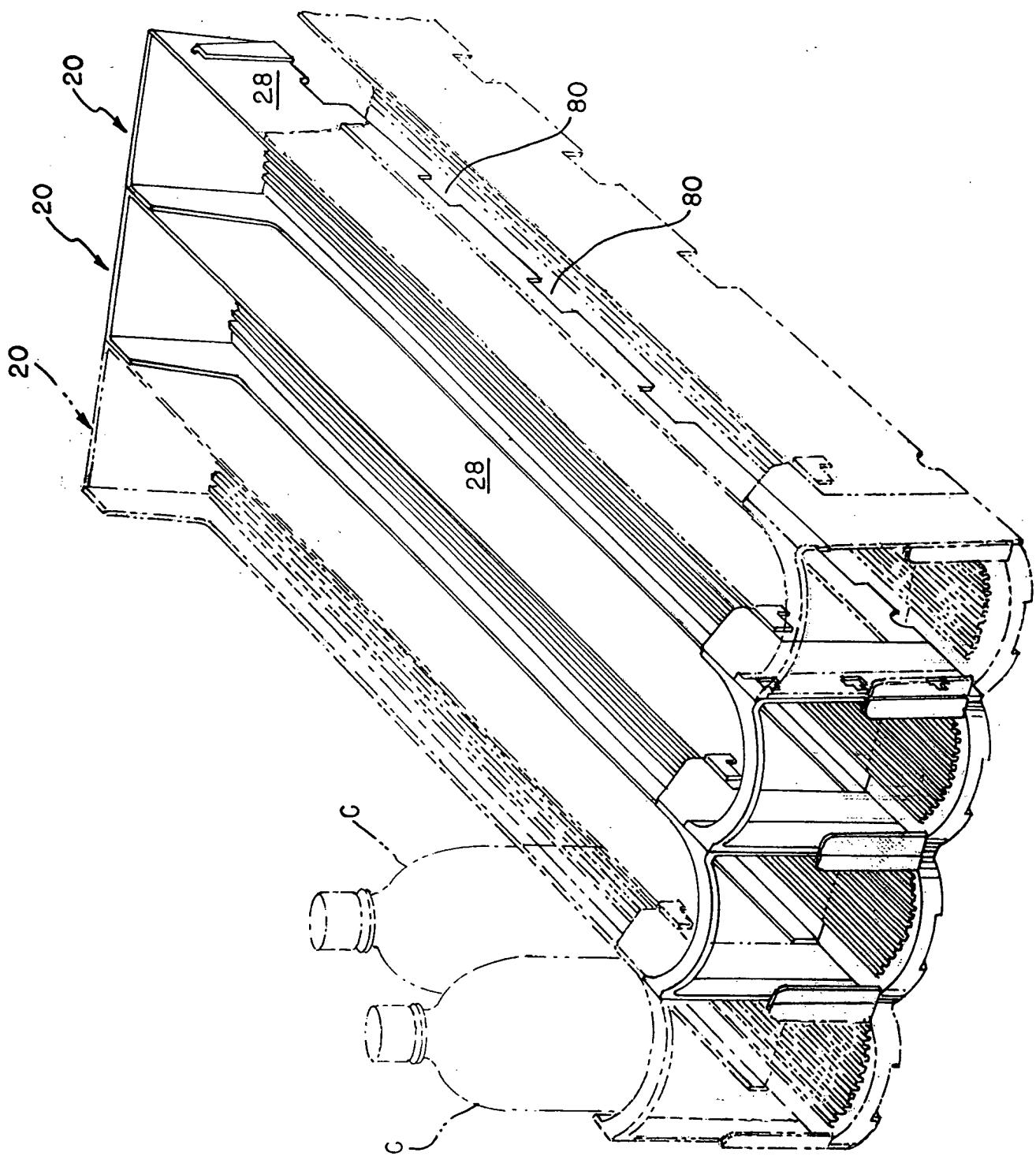
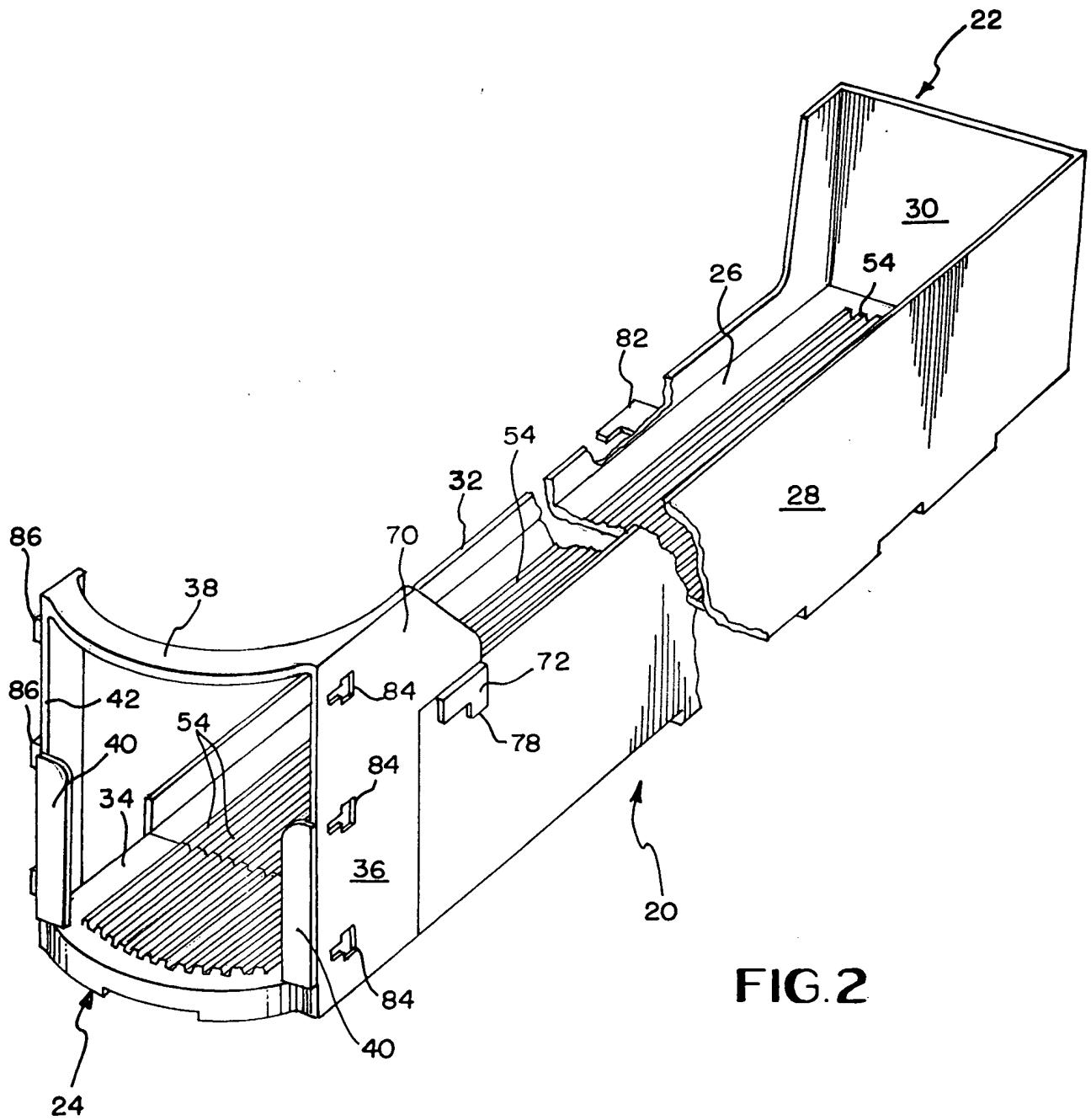
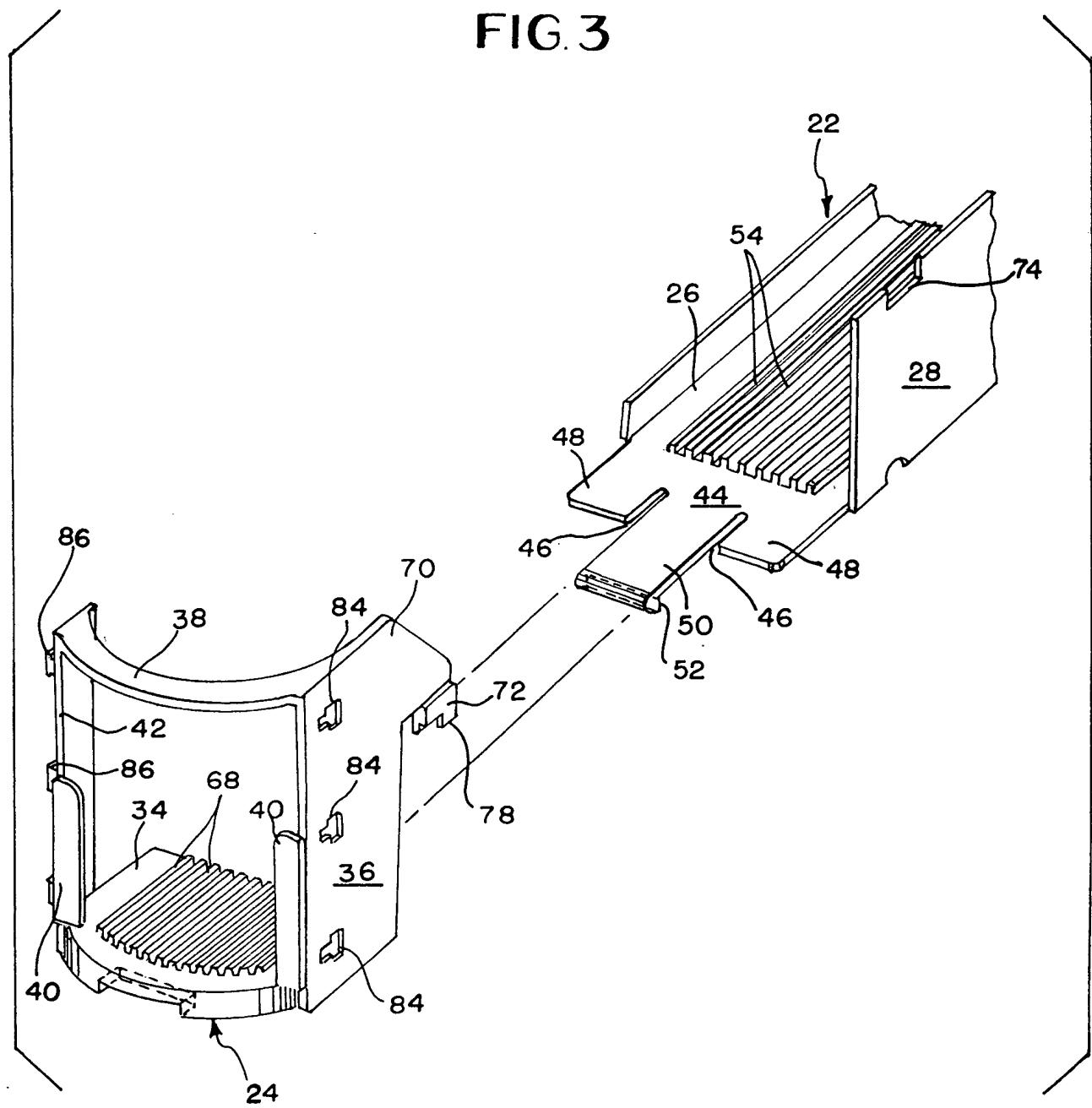


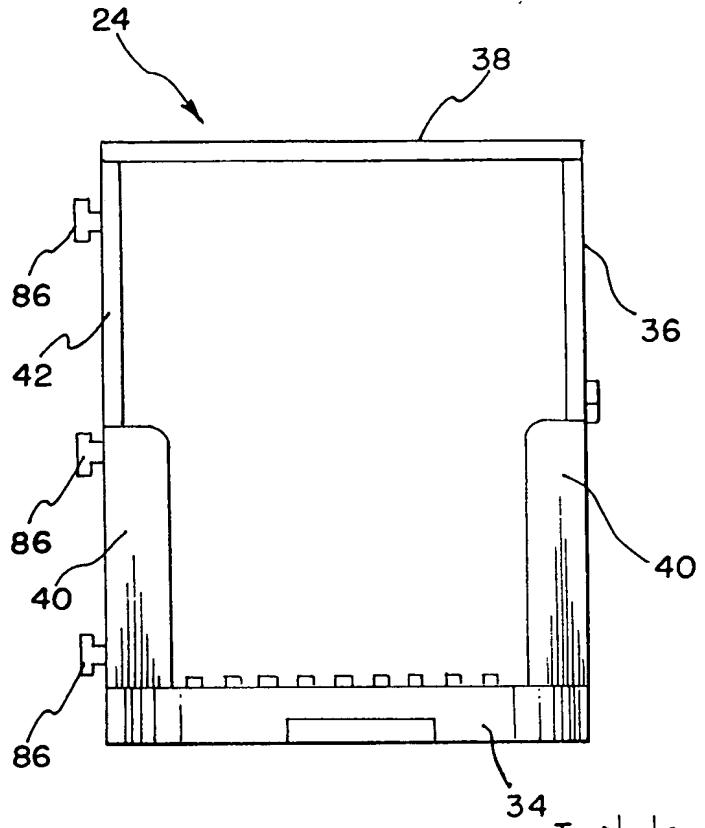
FIG. I



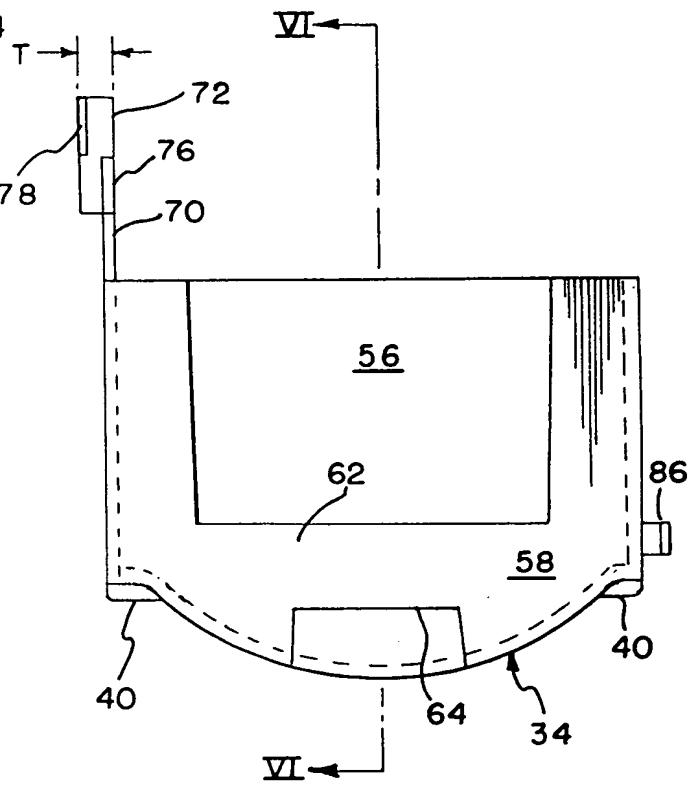
**FIG. 2**

**FIG. 3**

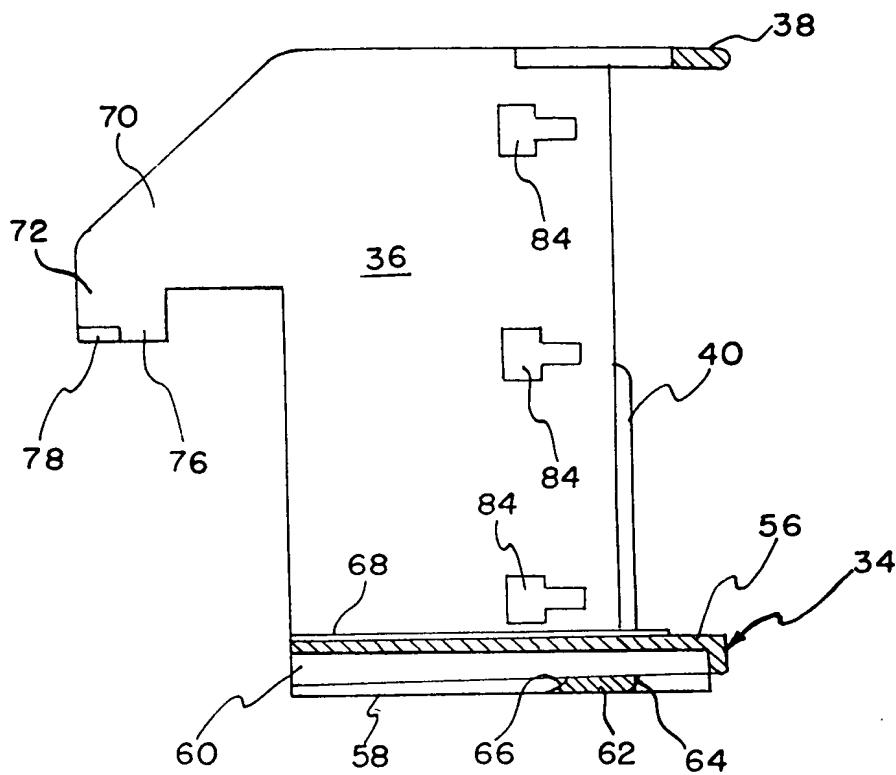




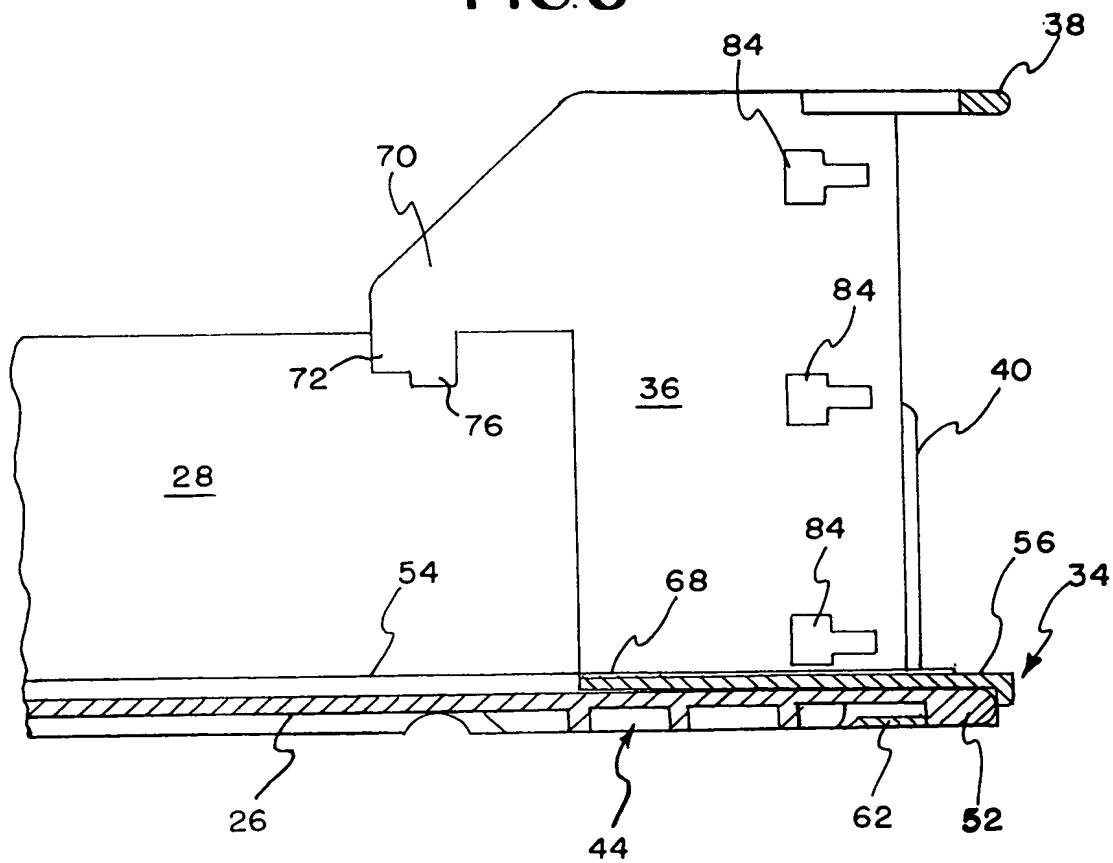
**FIG. 4**



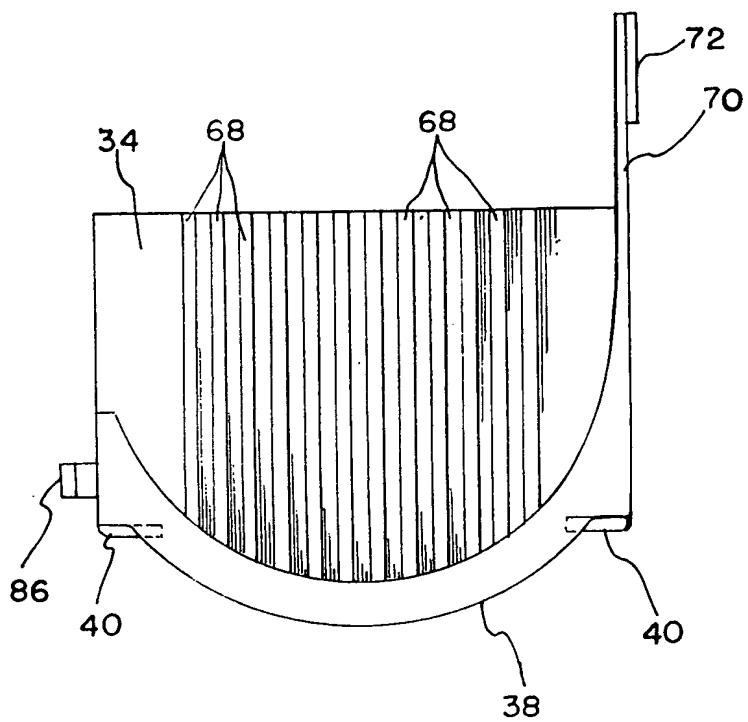
**FIG. 5**



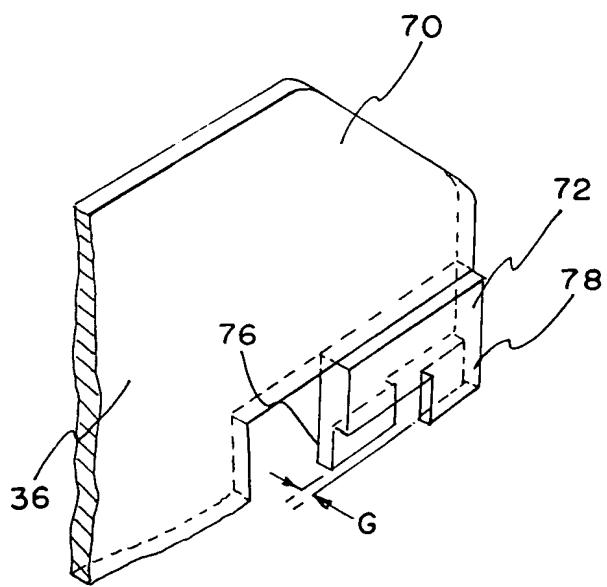
**FIG. 6**



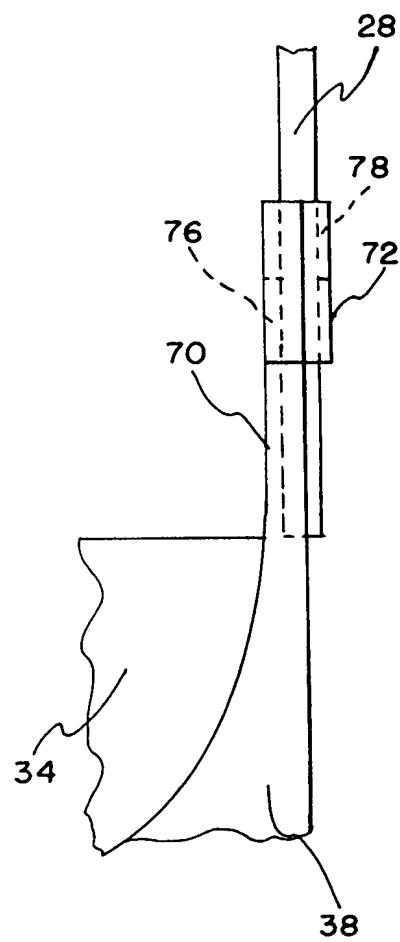
**FIG. 7**



**FIG. 9**



**FIG. 8**



**FIG. 10**

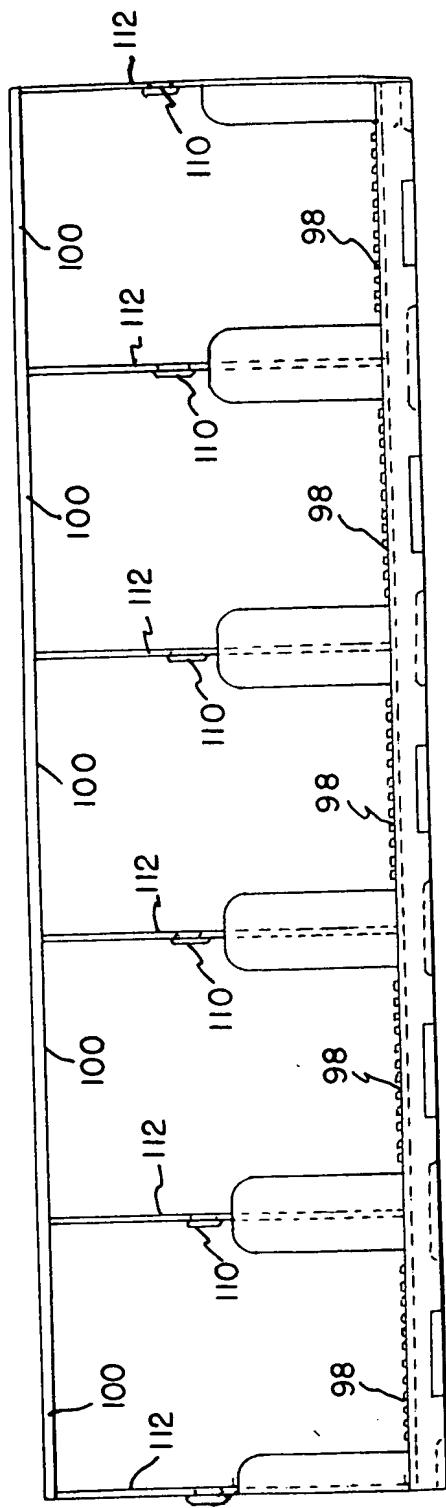


FIG. 12

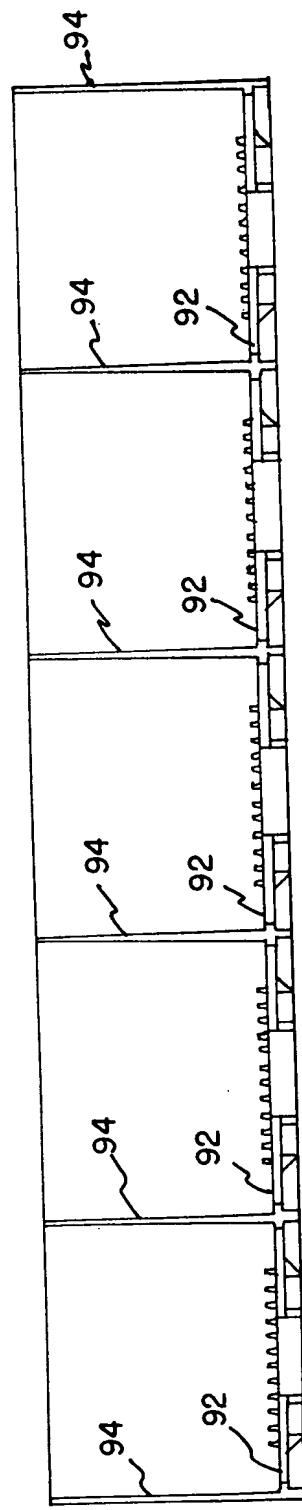
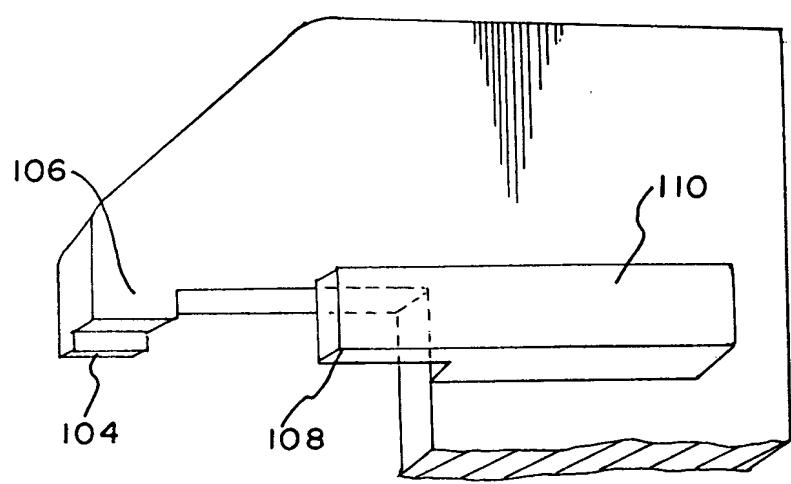


FIG. 13



**FIG.14**



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

## NOTICE OF ALLOWANCE AND ISSUE FEE DUE

PMS2/0911

JOHN L. JAMES  
PO BOX 2025  
MARIETTA GA 30061

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/967,381	11/08/97	017	TRAN, K	3634 09/11/01
First Named Applicant	PARHAM,			35 USC 154(b) term ext. = 0 Days.

TITLE OF INVENTION MERCHANDISING DISPLAY TRACK DEVICE OF MULTIPLE-PIECE CONSTRUCTION

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEES DUE	DATE DUE
3 D-2958	211-059.200	L86	UTILITY	YES	\$620.00	12/11/01

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT.  
PROSECUTION ON THE MERITS IS CLOSED.**

**THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS  
APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.**

### HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number.

Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

***IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.***

YOUR COPY

**Notice of Allowability**Application No.  
**08/967,381**

Applicant(s)

**DENNIS E. PARHAM**

Examiner

Khoa Tran

Art Unit

**3634***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 07-02-01.
2.  The allowed claim(s) is/are 1, 8, 11-13, 17, 19, 20, and 24-32.
3.  The drawings filed on \_\_\_\_\_ are acceptable as formal drawings.
4.  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - a)  All
  - b)  Some\*
  - c)  None of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

5.  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE FOR SUBMITTING NEW FORMAL DRAWINGS, OR A SUBSTITUTE OATH OR DECLARATION.** This three-month period for complying with the REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL is extendable under 37 CFR 1.136(a).

6.  Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.
7.  Applicant MUST submit NEW FORMAL DRAWINGS
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached 1)  hereto or 2)  to Paper No. \_\_\_\_\_.
  - (b)  including changes required by the proposed drawing correction filed Sep 24, 1998, which has been approved by the examiner.
  - (c)  including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

8.  Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any reply to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

**Attachment(s)**

- 1  Notice of References Cited (PTO-892)
- 3  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 5  Information Disclosure Statement(s) (PTO-1449), Paper No(s). \_\_\_\_\_
- 7  Examiner's Comment Regarding Requirement for Deposit of Biological Material
- 9  Other

- 2  Notice of Informal Patent Application (PTO-152)
- 4  Interview Summary (PTO-413), Paper No. 27
- 6  Examiner's Amendment/Comment
- 8  Examiner's Statement of Reasons for Allowance

Art Unit: 3634

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John L. James on September 07, 2001.

The application has been amended as follows:

**Claim 1**, line 21, a comma has been inserted after "member" and "with" has been deleted; line 22, "flexing to either" has been replaced with --engages-- and ", and" has been replaced with - -with--; line 23, "and depending from" has been deleted.

**Claim 7**, has been canceled.

**Claim 8**, line 26, after "prevented" insert --, and wherein one sidewall has a cutout opening to said upper edge and said opposite side surface thereof, and at least one engaging tab is formed on a lug to engage in said cutout--.

**Claim 15** has been canceled.

**Claim 17**, line 1, "15" has been replaced with --8--.

**Claim 18** has been canceled.

**Claim 27**, line 1, "7" has been replaced with --8--.

Art Unit: 3634

**Claim 29**, line 34, --with tabs-- has been inserted after "lug"; line 35, "depending" has been replaced with --extending--.

**Claim 31**, line 21, "and" has been replaced with --with--; line 24, "with" has been replaced with --having a cutout, --; line 29, --in a cutout-- has been inserted after "wall".

### *Drawings*

The application having been allowed, formal drawings are required in response to this Office action. Formal drawings are now must be filed within the **THREE MONTH** shortened statutory period set for reply in the "NOTICE OF ALLOWABILITY" (PTO-37). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit the drawings will result in **ABANDONMENT** of the application. The drawings should be submitted as a separate paper with a transmittal letter which is addressed to the Official Draftsperson. The art unit number, application number and number of drawing sheets should be written on the reverse side of the drawings.

### *Reasons for Allowance*

The following is an examiner's statement of reasons for allowance:

Claims 1, 8, 11-13, 17, 19-20, and 24-31 are allowed over the prior art of record is because there is no prior art of record that teaches or suggests a merchandising track possessing the entire combination of features specified by the claims. In particular, there is no teaching or

Art Unit: 3634

suggestion from the prior art of a flexible overhang having the engaging tabs formed on a lug to engage in a cutout opening at the upper edge sidewalls of the second elongated track member, see claim 1, lines 21-31, see the last paragraph of claim 8, claim 29, lines 27-38 and claim 31, lines 20-32.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Khoa Tran

September 10, 2001

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600



## UNITED STATES DEPARTMENT OF COMMERCE

Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTORNEY DOCKET NO.

EXAMINER

ART UNIT

PAPER NUMBER

27

DATE MAILED:

## EXAMINER INTERVIEW SUMMARY RECORD

All participants (applicant, applicant's representative, PTO personnel):

(1) Mr. John L. James (3) \_\_\_\_\_(2) Mr. Khoa Tran (PTO) (4) \_\_\_\_\_Date of interview Sept. 7, 2001Type:  Telephonic  Personal (copy is given to  applicant  applicant's representative).Exhibit shown or demonstration conducted:  Yes  No. If yes, brief description: \_\_\_\_\_Agreement  was reached with respect to some or all of the claims in question.  was not reached.Claims discussed: 1, 7, 8, 15, 17, 18, 27, 29, and 31Identification of prior art discussed: All of recordDescription of the general nature of what was agreed to if an agreement was reached, or any other comments: Applicant agreed to changes to place the application in condition for allowance. See Exr's Amdt for changes made

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

Unless the paragraphs below have been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW (e.g., items 1-7 on the reverse side of this form). If a response to the last Office action has already been filed, then applicant is given one month from this interview date to provide a statement of the substance of the interview.

 It is not necessary for applicant to provide a separate record of the substance of the interview. Since the examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action.

Examiner's Signature



# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Inventors:

Dennis E. Parham

Merchandising Display Track Device  
Of Multiple Piece Construction

Serial No. 08/967,381

Filed: November 8, 1997

Group Art Unit: 3634

Examiner: Tran, Khoa

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to  
Box Non-Fee Amendment  
Assistant Commissioner for Patents  
Washington, D.C. 20231.

*John L. James*

Name: John L. James  
Registration No. 28,724  
Date: June 27, 2001

COMMISSIONER FOR PATENTS  
Washington, DC 20231

SIR:

Transmitted herewith is amendment in the above-identified application:

No additional fee is required.

The fee has been calculated as shown below:

The filing fee has been calculated as shown below:

	(Col. 1)		(Col. 2)		OTHER THAN A SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL	* 20	MINUS	** 21	+ -0-	x 9	\$ 00.00
INDEP	* 4	MINUS	*** 4	+ -0-	x 40	\$ 00.00
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM						\$ 00.00
						<b>TOTAL</b> \$ 00.00

A check in the amount of \$ is attached to cover the fee.  
A duplicate copy of this sheet is enclosed

*John L. James*

John L. James  
Attorney for Applicant(s)  
Registration No. 28,724

Telephone: 770-792-0360  
Facsimile: 770-792-0360

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of  
Inventor(s):  
Dennis E. Parham

Merchandising Display Track Device  
Of Multiple-Piece Construction

Serial No. 08/967,381

Filed: November 8, 1997

Group Art Unit: 3634

Examiner: Tran, Khoa.

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Washington, DC 20231

John L. James

Name: John L. James  
Registration No. 28,724  
Date: June 27, 2001

5 Commissioner for Patents  
Washington, D.C. 20231

Sir:

**AMENDMENT**

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In response to the Office Action mailed May 9, 2001, Paper No.  
25, please amend the above-identified application as follows:

**IN THE CLAIMS**

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Please cancel claim 3, and amend claims 1, 8, 15, 26, 29  
and 31 as follows:

1. (Four times Amended) A merchandising track device for displaying articles, said track device comprising:  
first and second elongate track members formed separately as two discrete structures, said first and second members being connected together  
5 in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general

10 longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof; [and]

15 locking means integrally formed with said first member for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means [being provided as part of said first member and] comprising a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member ~~[with said]~~ flexible overhang ~~flexing to either side of said one side wall of said second member]~~ and a lug formed integrally with ~~[and]~~ depending from ~~said~~ overhang and received in said cutout, whereby longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member is prevented[.]; and

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30 a pair of engaging tabs provided disposed respectively alongside said opposite side surfaces of said one side wall of said second member with at least one of said engaging tabs formed on said lug so that lateral displacement of said one side wall of said first member relative to said one side wall of said second member is prevented.

8. (Four Times Amended) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; [and]

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10 a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, at least one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one

15 sidewall; and locking means for interconnecting said one upright wall and  
said one side wall to lock said front piece in position relative to said body,  
said locking means including a flexible overhang integrally formed with  
said front piece and extending rearward from said portion of said one  
upright wall and disposed over said upper edge of said one side wall with  
20 said flexible overhang flexing to either side of said one side wall of said  
second member[,]; and

25 a pair of engaging tabs [provided for said one upright wall and] disposed respectively alongside opposite side surfaces of said one side wall, at least one of said engaging tabs being [connected to] integrally formed with said overhang, whereby lateral displacement of said one upright wall relative to said one side wall is prevented.

15. (Twice Amended) The track device according to claim 8 wherein said one side wall has a cutout opening to said upper edge and said opposite side surface thereof, [said locking means further includes] and including a lug depending from said overhang and received in said cutout so 5 that longitudinal displacement of said one upright wall relative to said one side wall is prevented, and said at least one engaging tab is formed on said lug. *to engage a cutout*

26. (Three Times Amended) The track device according to claim 25, wherein said strip portion is provided by said lower wall and [extending] extends transversely of said body, said rear face of said strip portion sloping downwardly and rearwardly, said hooking element 5 projecting downwardly from a lower surface of said tongue.

29. (Twice Amended) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected together 5 in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and  
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including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof;

15        said second member comprising a tongue extending longitudinally from said track base of said second member, said tongue defining an end of said second member, said first member having an end-opening socket for receiving said tongue so that said track bases of said first and second members are interconnected, said tongue being formed on said track base of said second member such that an upper surface of said tongue is disposed below an upper surface of said track base of said second member to allow said upper surface of said track base of said second member and an upper surface of said track base of said first member to form a continuous floor for slidably supporting said articles, wherein said track base of said first member comprises upper and lower opposed walls, and said socket is defined between said upper and lower walls; and

locking means integrally formed with said first member for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means [being provided as part of said first member and] comprising a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member with said flexible overhang flexing to either side of said one side wall of said second member, and a lug formed integrally with and ~~depending~~ from said overhang and received in said cutout, whereby longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member is prevented.

u/s/take

31. (Twice Amended) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; and

a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, said deck having a socket for receiving said tongue so that said deck and said track base are interconnected, said tongue being formed on said track base such that an upper surface of said tongue is disposed below an upper surface of said track base to allow said upper surface of said track base and an upper surface of said deck to form a continuous floor for slidably supporting said articles, at least one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one sidewall; and locking means integrally formed with said front piece for interconnecting said one upright wall ~~and~~ <sup>with</sup> said one side wall to lock said front piece in position relative to said body, said locking means including a flexible overhang ~~extending rearward from said portion of said one upright wall~~ <sup>having said ext op</sup> ~~and disposed over said upper edge of said one side wall~~ <sup>with</sup> said flexible overhang flexing to either side of said one side wall of said second member[,]; and

a pair of engaging tabs [provided for said one upright wall and] disposed respectively alongside opposite side surfaces of said one side wall~~,~~ <sup>ext op</sup> ~~ext op~~ with at least one of said engaging tabs being [connected to] integrally formed with said overhang[, whereby] so that lateral displacement of said one upright wall relative to said one side wall is prevented.

#### REMARKS

Reconsideration of the claims is respectfully requested. Claim 3 has been cancelled. Claims 1, 8, 15, 26, 29 and 31 have been amended to more particularly define the invention. Claims 1, 8, 29 and 31 are the only independent claims remaining in the application. Claims 1, 7-8, 11-13, 15, 17-20 and 24-32 are presented for reconsideration

Claims 1 and 8 were rejected under 35 U.S.C. § 102(b) as being anticipated by Spamer '336.

This rejection is respectfully traversed.

Spamer '336 discloses disjointsable clips (13, 14, 15) that connect the two sections of the sidewalls (4-4a, 5-5a, 6-6a). The clips are not integrally

formed with the sidewalls. Claims 1 and 8 now require locking means integrally formed with the first member (claim 1) or front piece (claim 8). Spamer '336 uses three separate members in connecting the sidewalls to form a unitary structure. The present invention uses only two separate members to achieve a unitary structure. Claims 1 and 8 are not believed to be anticipated by Spamer '336. Claims 1 and 8 are believed to patentably distinguish over Spamer '336. Claims 7, 11-13, 15 and 17-28 depend on claim 8 and are also believed to patentably distinguish over Spamer '336.

Claims 1, 3, 8 and 31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Parham et al. '664.

This rejection is respectfully traversed.

Parham et al. '664 discloses locking means 35, 62 that interconnect one sidewall of the first member and one sidewall of the second member with a third member 29. Locking means 35 is part of the first member and locking means 62 is part of the second member. The claims are directed to a two member structure where the locking means is located one member. The locking means is integrally formed with the first member or front piece. Claims 1, 3, 8 and 31 are believed to patentably distinguish over Parham et al. '664..

Claims 1, 3, 8, 15, 17 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Spamer '336 in view of Wiese '074.

This rejection is respectfully traversed.

Spamer '336 and Wiese '074 disclose different types of merchandising devices. Spamer '336 discloses a display track device of the same nature as the present invention wherein beverage bottles slide along the track and rest their bottoms on the track. Wiese '074 discloses a display track that suspends beverage bottle by the neck flange. Spamer '336 discloses disjointable clips (13, 14, 15) that connect the two sections of the sidewalls (4-4a, 5-5a, 6-6a) together but the clips are not integrally formed with the sidewalls. Wiese '074 does not connect sidewalls together in an end-to-end relationship but allows a great deal of overlap. Column 5 lines 63--7 and column 6 lines 1-2 of Wiese '075, referring to Figure 5, state that tabs 110 on gate members 74 engage slots 112 in side walls 76 to establish a hinged connection between each gate member 74 and the corresponding sidewall 76, while leaf springs 100 bias the gate members 74 into the closed position, where the gate members 74 rest against corresponding forward extensions 114 of side walls 76. The purpose of a hinged connection is to allow one of the members

hingedly connected to move relative to the other member. This teaches away from the present invention where the object is to prevent movement of one member relative to the other member.

Claims 1, 3, 8, 15, 17 and 18 require integrally formed locking means for interconnecting the two members to lock the members in position relative to one another. Claims 1, 3, 8, 15, 17 and 18 are believed to patentably distinguish over Spamer '336 and Wiese '074. Claims 11-13 and 19-20 depend on claim 8 and are also believed to be patentable. In addition claims 11-13 and 19-20 add limitations further defining the present invention which limitations are not present in a single reference.

Claims 7, and 24-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Spamer '336 in view of Wiese '074 as applied to claims 1, 3, 8, 15 17 and 18 above, and further in view of Alain and Heinen et al.

This rejection is respectfully traversed.

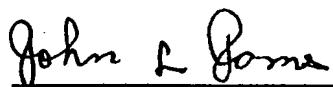
Claims 7 and 24-28 depend on claim 8 and are believed to be patentable. Claim 8 is believed to be patentable as explained above.

Alain and Heinen et al. were cited for deck structure. Claims 7, and 24-32 require the locking means in addition to the deck structure. As stated above, Spamer '336 and Wiese '074 disclose different types of merchandising devices. Spamer '336 discloses a display track device of the same nature as the present invention wherein beverage bottles slide along the track and rest their bottoms on the track. Wiese '074 discloses a display track that suspends beverage bottle by the neck flange. Spamer '336 discloses disjointable clips (13, 14, 15) that connect the two sections of the sidewalls (4-4a, 5-5a, 6-6a) together but the clips are not integrally formed with the sidewalls. Wiese '074 does not connect sidewalls together in an end-to-end relationship but allows a great deal of overlap. Column 5 lines 63--7 and column 6 lines 1-2 of Wiese '075, referring to Figure 5, state that tabs 110 on gate members 74 engage slots 112 in side walls 76 to establish a hinged connection between each gate member 74 and the corresponding sidewall 76, while leaf springs 100 bias the gate members 74 into the closed position, where the gate members 74 rest against corresponding forward extensions 114 of side walls 76. The purpose of a hinged connection is to allow one of the members hingedly connected to move relative to the other member. This teaches away from the present invention where the object is to prevent movement of one member relative to

the other member. Therfore, there is nothing to teach or suggest combining Spamer, Wiese, Alain and Heinen.

It is believed that the claims in the application are allowable over the prior art and that the application is in condition for immediate allowance.

Respectfully submitted,



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Atty Docket No. D-2958  
0409-99-205  
Serial No.: 08/967,381  
**Amendment A**  
Telephone: 770-792-0360  
Facsimile: 770-792-0360

1. (Four times Amended) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof;

locking means integrally formed with said first member for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means comprising a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member with said flexible overhang flexing to either side of said one side wall of said second member, and a lug formed integrally with and depending from said overhang and received in said cutout, whereby longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member is prevented; and

a pair of engaging tabs provided disposed respectively alongside said opposite side surfaces of said one side wall of said second member with at least one of said engaging tabs formed on said lug so that lateral displacement of said one side wall of said first member relative to said one side wall of said second member is prevented.

7. (Three Times Amended) The track device according to claim 8, wherein said tongue is provided with a hooking element projecting therefrom, and said track base of said first member has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent longitudinal displacement of said first member with respect to said second member, said rear face sloping to facilitate insertion of said tongue into said socket.

8. (Four Times Amended) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body;

a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, at least one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one sidewall; and locking means for interconnecting said one upright wall and said one side wall to lock said front piece in position relative to said body, said locking means including a flexible overhang integrally formed with said front piece and extending rearward from said portion of said one upright wall and disposed over said upper edge of said one side wall with said flexible overhang flexing to either side of said one side wall of said second member; and

a pair of engaging tabs disposed respectively alongside opposite side surfaces of said one side wall, at least one of said engaging tabs being integrally formed with said overhang, whereby lateral displacement of said one upright wall relative to said one side wall is prevented.

11. (Amended) The track device according to claim 8, wherein said engaging tabs are disposed with a lateral gap therebetween to receive in said gap an edge of said one sidewall.

12. The track device according to claim 11, wherein said engaging tabs are opposed to each other across a thickness of said one side wall.

13. The track device according to claim 11, wherein said engaging tabs are disposed at positions offset from each other along a length of said one side wall.

15. (Twice Amended) The track device according to claim 8 wherein said one side wall has a cutout opening to said upper edge and said opposite side surface thereof, and including a lug depending from said overhang and received in said cutout so that longitudinal displacement of said one upright wall relative to said one side wall is prevented, and said at least one engaging tab is formed on said lug.

5           17. (Amended) The track device according to claim 15, wherein said lug has a thickness greater than a thickness of said one side wall, and both said engaging tabs are formed on said lug.

*Concav*  
18. (Amended) The track device according to claim 15, wherein one of said engaging tabs is formed on said lug and the other tab is formed on said one upright wall.

19. The track device according to claim 8, wherein said body and said front piece are formed from different material.

20. The track device according to claim 19, wherein said body is molded of polystyrene, and said front piece is molded of polycarbonate.

5           24. (Amended) The track device according to claim 8, wherein said tongue is provided with a hooking element projecting therefrom, and said deck has a strip portion having a front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent forward displacement of said front piece with respect to said body, said rear face sloping to facilitate insertion of said tongue into said socket.

25. (Amended) The track device according to claim 24, wherein said engaging edge of said deck extends transversely of said body.

5           26. (Three Times Amended) The track device according to claim 25, wherein said strip portion is provided by said lower wall and extends transversely of said body, said rear face of said strip portion sloping downwardly and rearwardly, said hooking element projecting downwardly from a lower surface of said tongue.

27. The track device according to claim 7, wherein said tongue is formed with at least one notch for dividing said tongue into plural portions so that one of said plural portions exhibits substantial flexibility, and said one of said plural portions is provided with said hooking element.

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28. The track device according to claim 24, wherein said tongue is formed with at least one notch for dividing said tongue into plural portions so that one of said plural portions exhibits substantial flexibility, and said one of said plural portions is provided with said hooking element.

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29. (Twice Amended) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof;

said second member comprising a tongue extending longitudinally from said track base of said second member, said tongue defining an end of said second member, said first member having an end-opening socket for receiving said tongue so that said track bases of said first and second members are interconnected, said tongue being formed on said track base of said second member such that an upper surface of said tongue is disposed below an upper surface of said track base of said second member to allow said upper surface of said track base of said second member and an upper surface of said track base of said first member to form a continuous floor for slidably supporting said articles, wherein said track base of said first member comprises upper and lower opposed walls, and said socket is defined between said upper and lower walls; and

locking means integrally formed with said first member for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said

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locking means comprising a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member with said flexible overhang flexing to either side of said one side wall of said second member, and a lug formed integrally with and depending from said overhang and received in said cutout, whereby longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member is prevented.

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30. The track device according to claim 29, wherein said tongue is provided with a hooking element projecting therefrom, and said track base of said first member has a strip portion having a front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent longitudinal  
5 displacement of said first member with respect to said second member, said rear face sloping to facilitate insertion of said tongue into said socket.

31. (Twice Amended) A merchandising track device for displaying articles, said track device comprising:

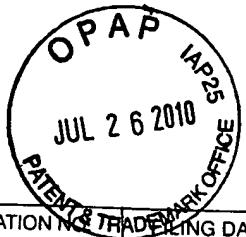
an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said  
5 body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; and

10 a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, said deck having a socket for receiving said tongue so that said deck and said track base are interconnected, said tongue being formed on said track base such that an upper surface of said tongue is disposed below an upper surface of  
15 said track base to allow said upper surface of said track base and an upper surface of said deck to form a continuous floor for slidably supporting said articles, at least one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one sidewall; and locking means integrally formed with said front piece for  
20 interconnecting said one upright wall and said one side wall to lock said front piece in position relative to said body, said locking means including a

flexible overhang extending rearward from said portion of said one upright wall and disposed over said upper edge of said one side wall with said  
25 flexible overhang flexing to either side of said one side wall of said second member; and

a pair of engaging tabs disposed respectively alongside opposite side surfaces of said one side wall with at least one of said engaging tabs being integrally formed with said overhang so that lateral displacement of  
30 said one upright wall relative to said one side wall is prevented.

32. The track device according to claim 31, wherein said tongue is provided with a hooking element projecting therefrom, and said deck has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent forward displacement of said front piece  
5 with respect to said body, said rear face sloping to facilitate insertion of said tongue into said socket.



UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

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Washington, D.C. 20231

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APPLICATION NO. / TRADEMARK DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/967,381 11/08/97	PARHAM	D D-2958

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PM82/0509

EXAMINER

TRAN, K

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED:

05/09/01

25

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>08/967,381</b>	Applicant(s) <b>DENNIS E. PARHAM</b>	
	Examiner <b>Khoa Tran</b>	Art Unit <b>3634</b>	
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>			
<p><b>Period for Reply</b></p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<p><b>Status</b></p> <p>1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>Feb 15, 2001 and October 13, 1999</u></p> <p>2a) <input type="checkbox"/> This action is FINAL.      2b) <input type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>			
<p><b>Disposition of Claims</b></p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1, 3, 7, 8, 11-13, 15, 17-20, and 24-32</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input checked="" type="checkbox"/> Claim(s) <u>1, 3, 7, 8, 11-13, 15, 17-20, and 24-32</u> is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input type="checkbox"/> Claims _____ are subject to restriction and/or election requirement.</p>			
<p><b>Application Papers</b></p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a) <input type="checkbox"/> approved b) <input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
<p><b>Priority under 35 U.S.C. § 119</b></p> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a) <input type="checkbox"/> All b) <input type="checkbox"/> Some* c) <input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</li> <li>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</li> <li>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol>			
<p>*See the attached detailed Office action for a list of the certified copies not received.</p> <p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>			
<p><b>Attachment(s)</b></p> <p>15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____</p> <p>18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____</p> <p>19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>20) <input type="checkbox"/> Other: _____</p>			

Art Unit: 3634

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 8, line 21, "for" should be --with--.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Spamer ('336). Spamer ('336) discloses a merchandising display device comprising a plurality of tracks (20), see Figures 1, 1a, 2, and 3. Each track comprises two discrete structures, track members (1 and 2), that are connected end-to-end lengthwise, each track having a base that has tongues (28, 29) and at least one sidewall (4, 5, 6) upstanding from the base and aligned to the sidewall (4a, 5a, 6a) of the other member; and the locking means comprising longitudinal retention means (13, 14,

Art Unit: 3634

15) for connecting two sidewalls such that to prevent longitudinal displacement between two walls. The longitudinal retention means comprises a flexible overhang of a lug (C) disposed over and above the upper edges sidewalls in a cutout opening, see Figure 1a. The flexible overhang is flexed to sides of sidewalls with integrally formed tabs (L1, L2) extending rearwardly to engage with the cutout that has tabs (G, G1) on the sides of sidewalls thereof. The second member having tongues (28, 29) extending longitudinally from the track base to define its forward end and the first member having keyholes designed to receive the tongues (28, 29) so that both bases of the track are interconnected to form a continuous floor, see Figures 2 and 3.

Claims 1, 3, 8, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Parham et al. ('664). Parham et al. ('664) disclose a plastic molded merchandising display device comprising a plurality of tracks (20). Each track is comprising two discrete structures of the first and second rear and front track members that connect end-to-end lengthwise, see Figure 2, each track having a base with tongues and a sidewall (24) that is upstanding from the base and aligned with one another. The second track member having a portion (32) that is extending upwardly above the upper edge of the sidewall (24) that has a cutout opening (33), see Figure 3. A pair of locking means (35, 62) that interconnect one sidewall of the first member and one side wall of the second member with a member (29) such that the locking of the first and second members are in positions relative to each other. The locking means (35, 62) of members are being provided as a flexible overhang extending above the side wall and disposed over the upper edge (36) of one side wall (26). The flexible overhang (35, 62) of members have a rearward forming lug, see Figures 3

Art Unit: 3634

and 4, that is flexing to either side and to one sidewall (29) to received in a cutout (44), see Figure

1. The base deck of the track having a tongue (58) in a form of an engaging tab disposed below the upper surface of the track and receives in a socket (68), see Figures 6 and 14, such that to connect the deck and the track together.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 8, 15, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese. Spamer ('336) discloses a merchandising display device comprising a plurality of tracks (20), see Figures 1, 1a, 2, and 3. Each track comprises two discrete structures, track members (1 and 2), that are connected end-to-end lengthwise, each track having a base that has tongues (28, 29) and at least one sidewall (4, 5, 6) upstanding from the base and aligned to the sidewall (4a, 5a, 6a) of the other member; and the locking means comprising longitudinal retention means (13, 14, 15) for connecting two sidewalls such that to prevent longitudinal displacement between two walls. The longitudinal retention means comprises a flexible overhang of a lug (C) disposes over and above the upper edges sidewalls in a cutout opening, see Figure 1a. The flexible overhang is flexed to sides of sidewalls with integrally

Art Unit: 3634

formed tabs (L1, L2) extending rearwardly to engage with the cutout that has tabs (G, G1) on the sides of sidewalls thereof. The second member having tongues (28, 29) extending longitudinally from the track base to define its forward end and the first member having keyholes designed to receive the tongues (28, 29) so that both bases of the track are interconnected to form a continuous floor, see Figures 2 and 3. Note that Spamer ('336) teaches the limitations of the upright front wall (7, 9) that is extended upwardly and rearwardly in connection with the edge of the side wall. Spamer ('336) did not teach the side wall of the front wall is overhung. Wiese teaches a first member (70) of the merchandise track device having side wall overhang structure with integrally formed lugs (110) extending rearwardly in connection with the second member (60). See Figures 3-8. Wiese's overhang first member (70) is a flexible overhang member so that the lugs on the member can be flexed and engage with apertures (112) thereon the sidewalls, see Figure 5. To one of ordinary skill in the art, it would have been obvious matter to provide the cut out near the front wall and provide the front wall device of Spamer ('336) with a flexible overhang structure having integrally formed lugs as taught by Wiese in order to have the front wall member in connection with the cut out there on the sidewall.

Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese as applied to claims 1, 3, 8, 15, 17 and 18 above, and further in view of Parham et al. ('664) and Levenberg. Parham et al. ('664) teach the engaging tabs disposed on the opposing side surface of an upright wall with the exception that engaging tabs are not spaced in an offset manner. Levenberg teaches the engaging tabs (60, 61) dispose along opposed side

Art Unit: 3634

surfaces of a wall (10) at vertically offset positions creating a gap of thickness of the adjacent wall (10) so that the wall may be retained between the offset engaging tabs to prevent lateral displacement of one wall from another. Considering Spamer ('336) in view of Wiese and the teaching of Parham et al. ('664) and Levenberg, taken as a whole, to one ordinary skill in the art, it would have been obvious to provide the sidewall of Spamer ('336) with engaging tabs as taught by Parham et al. ('664) in order to enable to connect the track with the adjacent track to form a row of track. One ordinary skill in the art would have been further motivate as a matter of design choices to arrange the engaging tabs in an offset manner as taught by Levenberg in order to take play in connection the sidewall with the adjacent sidewall thus producing no unexpected results.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese as applied to claims 1, 3, 8, 15, 17 and 18 above, and further in view of Flum and Carroll. Flum teaches the value of molding a track body of a polystyrene compound, see column 8, lines 6-18. Carroll teaches the improvements in appearance and capabilities made possible by molding the front piece of the track base from polycarbonate, see column 3, lines 29-45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the track body of Spamer ('336) of a polystyrene compound, as taught by Flum, to provide an optimum sliding surface for the gravity feed system; and to mold the front piece of a polycarbonate, as taught by Carroll, to retain the leading article of the track securely, but in a manner that allowed the front of the product to be completely visible to the customer as a way of attracting the attention of the customer more fully.

Art Unit: 3634

Claims 7 and 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese as applied to claims 1, 3, 8, 15, 17 and 18 above, and further in view of Alain and Heinen et al. The type of a base deck of Spamer ('336) is not having upper and lower opposed walls defining a socket therebetween to receive the tongue of the second track member which is retained in place by a downwardly depending hook element that latches over the edge of the deck. Alain teaches the type of a deck having upper and lower opposed walls that define a socket (19, 20) in which the tongue (15, 16) is received in the socket, see Figure 1. The upper surface of the tongue (15, 16) is disposed below the continuous floor (C) and the lower surface is provided with a hook element (49) that projects downwardly from that surface, see Figures 1 and 4. The end of the socket (19, 20) has an edge for engaging the hook element (49) in section A. Heinen et al. teach an upper surface of a tongue with a hook (38) that is disposed in a socket (16) to engage the upper surface of the strip portion edge (24). Considering Spamer ('336) in view of Wiese and the teaching of Alain and Heinen et al., taken as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to provide Spamer ('336) with the type of a base deck as taught by Alain in order to take play to have the tongues engage below the deck in a socket so that to have a continuous track surface of a deck. One ordinary skill in the art would have been further motivated as a matter of design choices to provide the tongue with a hook element to engage the strip portion as taught by Heinen in order to provide a secure connection between two deck track members while

Art Unit: 3634

maintaining a continuously level track base because it is well-within the level of skill in the art to utilize the known features of the art for the purpose for which they are known.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Primiano, Primiano et al., Harbour et al., Apps et al., and Brozark, Jr., are cited to show similar configurations of design.

***Response to Amendment***

Applicants' remarks with respect to claims 1, 3, 7, 8, 11-13, 15, 17-20, and 24-32 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicants are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee

Art Unit: 3634

but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and

Trademark Office (Fax No. \_\_\_\_\_ ) on \_\_\_\_\_  
(Date)

Type or printed name of person signing this certificate:

\_\_\_\_\_

\_\_\_\_\_

(Signature)

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran

April 25, 2001

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

<b>Notice of References Cited</b>		Applicant/Patent <b>DENNIS E. PARHAM</b>	Application/Control No. <b>08/967,381</b>
		Examiner <b>Khoa Tran</b>	Art Unit <b>3634</b>

**U.S. PATENT DOCUMENTS**

	<b>Document Number</b> Country Code-Number-Kind Code	<b>Date</b> MM-YYYY <sup>1</sup>	<b>Name</b>	<b>Classification</b> <sup>2</sup>	
A	6,068,142	5/2000	PRIMIANO	211	
B	5,082,556	7/2000	PRIMIANO ET AL.	211	
C	6,142,316	11/2000	HARBOUR ET AL.	211	
D	6,189,734 B1	2/2000	APPS ET AL.	221	
E	6,068,139	5/2000	BROZAK, JR.	211	
F					
G					
H					
I					
J					
K					
L					
M					

**FOREIGN PATENT DOCUMENTS**

	<b>Document Number</b> Country Code-Number-Kind Code	<b>Date</b> MM-YYYY <sup>1</sup>	<b>Country</b>	<b>Name</b>	<b>Classification</b> <sup>2</sup>
N					
O					
P					
Q					
R					
S					
T					

**NON-PATENT DOCUMENTS**

	<b>Include, as applicable: Author, Title, Date, Publisher, Edition or Volume, Pertinent Pages</b>	
U		
V		
W		
X		

\* A copy of this reference is not being furnished with this Office action. See MPEP § 707.05(a).

<sup>1</sup> Dates in MM-YYYY format are publication dates.

<sup>2</sup> Classifications may be U.S. or foreign.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

Paper No. 24

John L. James  
PO Box 2025  
Marietta, GA 30061

In re Application of  
Dennis E. Parham  
Application No. 08/967,381  
Filed: November 8, 1997  
Attorney Docket No. D-2958

**COPY MAILED**

**FEB 15 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed November 2, 2000, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file proper response to the final Office action mailed September 13, 1999. In response to the final rejection and Amendment was filed on October 13, 1999. On November 2, 1999 an Advisory Action was mailed indicating that the response to the final rejection did not place the application in condition for allowance. Accordingly, a Notice of Abandonment was mailed on March 21, 2000.

The above-identified application is being revived solely for purposes of continuity with a continued prosecution application (CPA) filed on November 2, 2000.

The file will be forwarded to Technology Center 3600, Art Unit 3634, for further processing.

Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.

Latrice Bond  
Paralegal Specialist  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
08/967,381	11/08/1997	DENNIS E. PARHAM	D-2958

**CONFIRMATION NO. 6988**



\*OC00000005766833\*

John L. James  
 PO Box 2025  
 Marietta, GA 30061

Date Mailed: 02/14/2001

**NOTICE REGARDING POWER OF ATTORNEY**

This is in response to the Power of Attorney filed 11/02/2000.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

*Patrice Bond  
 Office of Petitions*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

ATTORNEY/APPLICANT COPY

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	Docket Number (Optional) <b>D-2958</b>
--	---

First named inventor: **Dennis Perham**Application No.: **08/967,381**Group Art Unit: **3634**Filed: **November 8, 1997**Examiner: **Tran, K.**Title: **Mechandising Display Track Device Of Multiple-Piece Construction**Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee –required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

Small entity-fee \$ 620 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of continued prosecution application (Identify type of reply):

- has been filed previously on \_\_\_\_\_.
- is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_.

- has been paid previously on \_\_\_\_\_.
- is enclosed herewith.

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**3. Terminal disclaimer with disclaimer fee**

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

**4. STATEMENT:** The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

**WARNING:** Information on this form may become public. Credit card Information should not be included on this form. Provide credit card information and authorization on PTO-2038.

October 30, 2000

Date

John L. James

Signature

Telephone  
Number: 770 792-0360

John L. James

Typed or printed name

P. O. Box 2025

Address

Marietta, GA 30061-2025

Enclosures:  Fee Payment

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: PTO-2038

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

October 30, 2000

Date

John L. James

Signature

John L. James

Type or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

# CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

*Submit an original, and a duplicate for fee processing.  
(Only for Continuation or Divisional applications under 37 CFR 1.53(d))*

CHECK BOX, if applicable:  
 DUPLICATE

**Address to:**

**Assistant Commissioner for Patents  
Box CPA  
Washington, DC 20231**

<b>Attorney Docket No. of Prior Application</b>	D-2958
<b>First Named Inventor</b>	Parham
<b>Examiner Name</b>	Tran, K.
<b>Group Art Unit</b>	3634
<b>Express Mail Label No.</b>	

This is a request for a  continuation or  divisional application under 37 CFR 1.53(d),  
(continued prosecution application (CPA)) of prior application number 08 / 967,381  
filed on 11/08/1997, entitled Merchandising Display Track Device of Multiple-Piece Construction.

## NOTES

**FILING QUALIFICATIONS:** The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b), or (2) the national stage of an International application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

**C-I-P NOT PERMITTED:** A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

**EXPRESS ABANDONMENT OF PRIOR APPLICATION:** The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

**ACCESS TO PRIOR APPLICATION:** The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

**35 U.S.C. 120 STATEMENT:** In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

1.  Enter the unentered amendment previously filed on October 1, 1999 under 37 CFR 1.116 in the prior nonprovisional application.
2.  A preliminary amendment is enclosed.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
  - a.  **DELETE** the following inventor(s) named in the prior nonprovisional application:  
.....  
.....
  - b.  The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4.  A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
  - a.  PTO-1449
  - b.  Copies of IDS Citations

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231.

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CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS (37 CFR 1.16(c) or (i))	21 -20* =	1	x \$ 18.00=	\$ 18.00
	INDEPENDENT CLAIMS (37 CFR 1.16(b) or (i))	4 -3** =	1	x \$80.00 =	80.00
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR 1.16(d))			+ \$ _____ =	
				BASIC FEE (37 CFR 1.16)	710.00
				Total of above Calculations =	808.00
	Reduction by 50% for filing by small entity (Note 37 CFR 1.27).				404.00
	* Reissue claims in excess of 20 and over original patent. ** Reissue independent claims over original patent.			TOTAL =	\$404.00

6.  Small entity status: Applicant claims small entity status. See 37 CFR 1.27.

7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. \_\_\_\_\_:

- a.  Fees required under 37 CFR 1.16.
- b.  Fees required under 37 CFR 1.17.
- c.  Fees required under 37 CFR 1.18.

8.  A check in the amount of \$ \_\_\_\_\_ is enclosed.9.  Payment by credit card. Form PTO-2038 is attached.10.  Applicant requests suspension of action under 37 CFR 1.103(b) (fee under 37 CFR 1.17(i) enclosed).11.  New Attorney Docket Number, if desired \_\_\_\_\_

(Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided herein.)

12. a.  Receipt For Facsimile Transmitted CPA (PTO/SB/29A)b.  Return Receipt Postcard (Should be specifically itemized. See MPEP 503)13.  Other: .....

**NOTE:** The prior application's correspondence address will carry over to this CPA  
UNLESS a new correspondence address is provided below.

**14. NEW CORRESPONDENCE ADDRESS** Customer Number or Bar Code Labelor  New correspondence address below

(Insert Customer No. or Attach bar code label here)

Name	John L. James			
Address	P. O. Box 2025			
City	Marietta	State	GA	Zip Code
Country	US	Telephone	770-792-0360	Fax
				30061-2025
				770-792-0970

**15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print or Type)	John L. James
Signature	<i>John L. James</i>
Registration No. (Attorney/Agent)	28,724
Date	October 30, 2000

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Dennis E. ParhamApplication No./Patent No.: 08/967,381 Filed/Issue Date: 11/08/1997Entitled: Merchandising Display Track Device of Multiple-Piece Const  
Display Industries, LLC, a Limited Liability Company of Georgia

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

- the assignee of the entire right, title, and interest; or
- an assignee of less than the entire right, title and interest.  
The extent (by, percentage) of its ownership interest is \_\_\_\_\_ %

in the patent application/patent identified above by virtue of either:

A. [ ] An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

B. [X] A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: Dennis E. Parham To: The MEad Corporation

The document was recorded in the United States Patent and Trademark Office at Reel 009090, Frame 0616, or for which a copy thereof is attached.

2. From: The MEad Corporation To: Display Industries, LLC

The document was recorded in the United States Patent and Trademark Office at Reel 010996, Frame 0001, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.08]

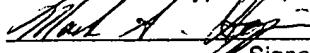
The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

11-30-00

Date

Mark A. Higgins

Typed or printed name



Signature

President

Title

Please type a plus sign (+) inside this box→

PTO/SB/81 (11-96)

Approved for use through 6/30/99. OMB 0651-0035

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**POWER OF ATTORNEY OR  
AUTHORIZATION OF AGENT,  
NOT ACCOMPANYING  
APPLICATION**

Application Number	08/967,381
Filing Date	11/08/1997
First Named Inventor	Parham
Group Art Unit	3634
Examiner Name	Tran, K.
Attorney Docket Number	D-2958

I hereby appoint:

Practitioners at Customer Number

OR

Practitioner(s) named below:

Name	Registration Number
John L. James	284724

Place Customer  
Number Bar Code  
Label here

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

The above-mentioned Customer Number.

OR

<input checked="" type="checkbox"/> Firm or Individual Name	John L. James		
Address	P. O. Box 2025		
Address			
City	Marietta	State	GA
Country	US	ZIP	30061
Telephone	770-792-0360	Fax	770-792-0970

I am the:

Applicant.

Assignee of record of the entire interest  
*Certificate under 37 CFR 3.73(b) is enclosed*

SIGNATURE of Applicant or Assignee of Record

Name      Mark A. Higgins

Signature      

Date      11-30-00

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

Wt

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/967,381 11/08/97 PARHAM

D D-2958

PM92/0321

EXAMINER

DISPLAY INDUSTRIES LLC  
ATTN: MR. MARK A. HIGGINS  
2990 OLYMPIC INDUSTRIAL DRIVE  
SMYRNA GA 30080

TRAN, K

ART UNIT	PAPER NUMBER
----------	--------------

3634

18

DATE MAILED: 03/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

**Commissioner of Patents and Trademarks**ULTRA  
CHON Front PONRANyes | PAY  
3/27/00

**Notice of Abandonment**

Application No. <b>08/967,381</b>	Applicant(s) <b>DENNIS E. PARHAM</b>
Examiner <b>KHOA TRAN</b>	Group Art Unit <b>3634</b>



This application is abandoned in view of:

applicant's failure to timely file a proper response to the Office letter mailed on 09-13-1999.

A response (with a Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_, which is after the expiration of the period for response (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.

A proposed response was received on 10-13-1999, but it does not constitute a proper response to the final rejection.  
(A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC)).

No response has been received.

applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.

The issue fee (with a Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_.

The submitted issue fee of \$ \_\_\_\_\_ is insufficient. The issue fee required by 37 CFR 1.18 is \$ \_\_\_\_\_.

The issue fee has not been received.

applicant's failure to timely file new formal drawings as required in the Notice of Allowability.

Proposed new formal drawings (with a Certificate of Mailing or Transmission of \_\_\_\_\_) were received on \_\_\_\_\_.

The proposed new formal drawings filed \_\_\_\_\_ are not acceptable.

No proposed new formal drawings have been received.

the express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on \_\_\_\_\_.

the letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.

the letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.

the decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.

the reason(s) below:

*According to a telephone conversation on March 14, 2000, Mr. John L. James indicated that no further response was filed.*

Daniel P. Stodola  
Supervisory Patent Examiner  
Group 3600

**Revision of Patent and Trademark Fees for Fiscal Year 2000  
In view of the American Inventors Protection Act of 1999, Public Law 106-113**

The following amendments to the fee amounts in 37 CFR 1.16, 1.20, and 1.492 shown below will be effective on December 29, 1999:

**Patent Fees:**

**37 CFR**

<b>Sec.</b>	<b>Description</b>	<b>Current Fee Amount</b>	<b>New Fee Amount (Effective 12/29/99)</b>
1.16(a)	Basic filing fee – Utility	\$760	\$690
1.16(a)	Basic filing fee – Utility (Small Entity)	\$380	\$345
1.16(a)	Basic filing fee – Utility (CPA)	\$760	\$690
1.16(a)	Basic filing fee – Utility (CPA) (Small Entity)	\$380	\$345
1.16(h)	Reissue filing fee	\$760	\$690
1.16(h)	Reissue filing fee (Small Entity)	\$380	\$345
1.16(h)	Reissue filing fee (CPA)	\$760	\$690
1.16(h)	Reissue filing fee (CPA) (Small Entity)	\$380	\$345
1.20(e)	Maintenance fee – due at 3.5 years	\$940	\$830
1.20(e)	Maintenance fee – due at 3.5 years (Small Entity)	\$470	\$415
1.492(a)(2)	ISA - U.S.	\$760	\$690
1.492(a)(2)	ISA - U.S. (Small Entity)	\$380	\$345

The following amendments to the fee amounts in 37 CFR 1.17 and 2.6 shown below will be effective on January 10, 2000:

**Patent Fees:**

**37 CFR**

<b>Sec.</b>	<b>Description</b>	<b>Current Fee Amount</b>	<b>New Fee Amount (Effective 1/10/00)</b>
1.17(r)	Filing a submission after final rejection (1.129(a))	\$760	\$690
1.17(r)	Filing a submission after final rejection (1.129(a)) (Small Entity)	\$380	\$345
1.17(s)	Per additional invention to be examined (1.129(b))	\$760	\$690
1.17(s)	Per additional invention to be examined (1.129(b)) (Small Entity)	\$380	\$345

**Trademark Fees:**

**37 CFR**

<b>Sec.</b>	<b>Description</b>	<b>Current Fee Amount</b>	<b>New Fee Amount (Effective 1/10/00)</b>
2.6(a)(1)	Application for registration, per class	\$245	\$325
2.6(a)(4)	Extension for filing Statement of Use, per class	\$100	\$150
2.6(a)(5)	Application for renewal, per class	\$300	\$400
2.6(a)(13)	Filing section 15 affidavit, per class	\$100	\$200
2.6(a)(16)	Petition for cancellation, per class	\$200	\$300
2.6(a)(17)	Notice of opposition, per class	\$200	\$300

Patent and trademark customers are responsible for paying the correct fee amounts. We advise our customers to refer to the official PTO Web site at [www.uspto.gov](http://www.uspto.gov) or contact the PTO General Information Services Division at (703) 308-4357 or (800) PTO-9199 for the most current fee amounts and information.



In re application of

Dennis E. Parham

Merchandising Display Track Device  
Of Multiple-Piece Construction

Serial No. 08/967,381

Filed: November 8, 1997

THE COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, DC 20231

SIR:

Transmitted herewith is amendment in the above-identified  
application:

No additional fee is required.

The fee has been calculated as shown below:

The filing fee has been calculated as shown below:

	(Col. 1)		(Col. 2)		SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL	* 21	MINUS	** 25	+ -0-	x 9	\$ ---
INDEP	* 4	MINUS	*** 4	+ -0-	x 39	\$ ---
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM					+ 130	\$ ---
					<b>TOTAL</b>	<b>\$ 00.00</b>

A check in the amount of \$--- is enclosed to cover the fee.

*John L. James*

John L. James  
Attorney for Applicant(s)  
Registration No. 28,724

Telephone: 770-792-0360  
Facsimile: 770-792-0970

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Group Art Unit: 3634

Inventor(s):

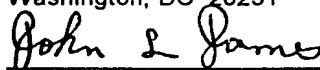
Examiner: Tran, Khoa

Dennis E. Parham

Merchandising Display Track Device  
Of Multiple-Piece Construction

I hereby certify that this correspondence is being deposited today with the United States Postal Services as first class mail in an envelope addressed to:

Box AF  
Assistant Commissioner for Patents,  
Washington, DC 20231



Name: John L. James  
Registration No. 28,724  
Date: October 11, 1999

Serial No. 08/967,381

Filed: November 8, 1997

5

Honorable Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

10

**AMENDMENT**

In response to the Office Action mailed September 13, 1999, Paper No. 14, please amend the above-identified application 15 as follows:

**IN THE CLAIMS**

Please amend claims 1, 7, 8, 29 and 31 as follows:

1. (Three Times Amended) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall

upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof; and

locking means for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means being provided as a part of said first member and comprising a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member with said flexible overhang flexing to either side of said one side wall of said second member, and a lug formed integrally with and depending from said overhang and received in said cutout, whereby longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member is prevented.

7. (Three Times Amended) The track device according to claim 8[1], wherein said tongue is provided with a hooking element projecting therefrom, and said track base of said first member has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent longitudinal displacement of said first member with respect to said second member, said rear face sloping to facilitate insertion of said tongue into said socket.

8. (Three times Amended) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; and

a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, at least

one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one side wall; and locking means for interconnecting said one upright wall and said one side wall to lock said front piece in position relative to said body, said locking means including a flexible overhang extending rearward from said portion of said one upright wall and disposed over said upper edge of said one sidewall with said flexible overhang flexing to either side of said  
15 one side wall of said second member, and a pair of engaging tabs provided for said one upright wall and disposed respectively alongside opposite side surfaces of said one side wall, at least one of said engaging tabs being connected to said overhang, whereby lateral displacement of said one upright wall relative to said one side wall is prevented.  
20  
25

29. (Amended) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected  
5 together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof;

15 said second member comprising a tongue extending longitudinally from said track base of said second member, said tongue defining an end of said second member, said first member having an end-opening socket for receiving said tongue so that said track bases of said first and second members are interconnected, said tongue being formed on said  
20 track base of said second member such that an upper surface of said tongue is disposed below an upper surface of said track base of said second member to allow said upper surface of said track base of said second member and an upper surface of said track base of said first member to form a continuous floor for slidably supporting said articles, wherein said

25 track base of said first member comprises upper and lower opposed walls, and said socket is defined between said upper and lower walls; and  
locking means for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means being provided as a part of said first member and comprising a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member with said flexible overhang flexing to either side of said one side wall of said second member, and a lug formed integrally with and depending from said overhang and received in said cutout, whereby longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member is prevented.

30  
35 31. (Amended) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; and

10 a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, said deck having a socket for receiving said tongue so that said deck and said track base are interconnected, said tongue being formed on said track base such that an upper surface of said tongue is disposed below an upper surface of said track base to allow said upper surface of said track base and an upper surface of said deck to form a continuous floor for slidably supporting said articles, at least one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one side wall; and locking means for interconnecting said one upright wall and said one side wall to lock said front piece in position relative to said body, said locking means including a flexible overhang extending rearward from said portion of said one upright wall and disposed over said upper edge of said one sidewall with said flexible overhang flexing to either side

25 of said one side wall of said second member, and a pair of engaging tabs provided for said one upright wall and disposed respectively alongside opposite side surfaces of said one side wall, at least one of said engaging tabs being connected to said overhang, whereby lateral displacement of said one upright wall relative to said one side wall is prevented.

30

REMARKS

Reconsideration of the claims is respectfully requested. Claim 7 has been amended to change its dependency from claim 1 to claim 8 to thereby provide antecedent basis for all elements of claim 7. Claims 1, 8, 29 and 31 have been amended to more particularly define the invention. Claims 1, 8 29 and 31 are the only independent claim in the application. Claims 1, 3, 7-8, 11-13, 15, 17-20 and 24-32 are present in the application.

In finally rejecting the claims the Examiner was unclear whether applicant argues the overhang 70 is being flexible or the tongue structure 44 is being flexible.

The claims recite a flexible, locking overhang. The flexible overhang 70 allows insertion of the tongue into the socket. The locking overhang is flexible as described on page 12 lines 22-24 of the specification to wit: The overhang 70 is then slightly flexed toward either side of the side wall 28." This flexing of overhang 70 would be left and right as viewed in Figure 2 of the drawings. In contrast, Wiese has overhang 70 with lugs 110 that flex in only one direction--inward towards one another as viewed in Figure 5. The present invention has a flexible overhang to bi-laterally manipulate the lug so that an in-line connection can easily be made. The claims depart from the prior art and are believed to be patentable.

It is believed that the claims in the application are allowable over the prior art and such allowance is respectfully requested.

Respectfully submitted,

Serial No. 08/967,381  
DOCKET D-2958  
Telephone 770-792-0360  
Facsimile 770-792-0970

*John L. James*  
\_\_\_\_\_  
John L. James  
Attorney for Applicant(s)  
Registration No. 28,724

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231*JM*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/967,381 11/08/97 PARHAM

D D-2958

PM82/1102

EXAMINER

DISPLAY INDUSTRIES LLC  
ATTN: MR. MARK A. HIGGINS  
2990 OLYMPIC INDUSTRIAL DRIVE  
SMYRNA GA 30080

TRAN, K

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED:

11/02/99

*JF***Please find below and/or attached an Office communication concerning this application or proceeding.****Commissioner of Patents and Trademarks**

<b>Advisory Action</b>	Application No. <b>08/967,381</b>	Applicant(s) <b>DENNIS E. PARHAM</b>
	Examiner <b>KHOA TRAN</b>	Group Art Unit <b>3634</b>

**THE PERIOD FOR RESPONSE:** [check only a) or b)]

- a)  expires 3 months from the mailing date of the final rejection.
- b)  expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

**Applicant's response to the final rejection, filed on Oct 1, 1999 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:**

The proposed amendment(s):

- will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- will not be entered because:
  - they raise new issues that would require further consideration and/or search. (See note below).
  - they raise the issue of new matter. (See note below).
  - they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: For example "overhang flexing to either side of said one side wall of second member" in claim 1, lines 21-22, would require further consideration and search because now the claim is required the overhang to be flexing to either side of the side wall.

Applicant's response has overcome the following rejection(s):  
\_\_\_\_\_  
\_\_\_\_\_

Newly proposed or amended claims \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.

The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
\_\_\_\_\_

The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: \_\_\_\_\_

Claims objected to: \_\_\_\_\_

Claims rejected: 1, 3, 7, 8, 11-13, 15, 17-20, and 24-32

The proposed drawing correction filed on \_\_\_\_\_  has  has not been approved by the Examiner.

Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_.

Other

Daniel P. Stodola  
Supervisory Patent Examiner  
Group 3600

In re application of

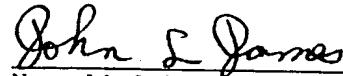
Dennis E. Parham

Merchandising Display Track Device  
Of Multiple-Piece Construction

Group Art Unit: 3634

Examiner: Tran, Khoa

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Box Non-Fee Amendment Assistant Commissioner for Patents, Washington, D.C. 20231.



Name: John L. James  
Registration No. 28,724  
Date: June 16, 1998

Serial No. 08/967,381

Filed: November 8, 1997

THE COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, DC 20231

SIR:

Transmitted herewith is amendment in the above-identified application:

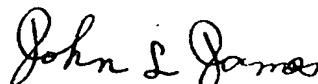
No additional fee is required.

The fee has been calculated as shown below:

The filing fee has been calculated as shown below:

	(Col. 1)		(Col. 2)		SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL	* 21	MINUS	** 25	+ -0-	x 9	\$ ---
INDEP	* 4	MINUS	*** 4	+ -0-	x 39	\$ ---
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM					+ 130	\$ ---
					<b>TOTAL</b>	<b>\$ 00.00</b>

A check in the amount of \$--- is enclosed to cover the fee.



John L. James  
Attorney for Applicant(s)  
Registration No. 28,724

Telephone: 770-792-0360  
Facsimile: 770-792-0970

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

Group Art Unit: 3634

Inventor(s):

Examiner: Tran, Khoa

Dennis E. Parham

Merchandising Display Track Device  
Of Multiple-Piece Construction

I hereby certify that this correspondence is being deposited today with the United States Postal Services as first class mail in an envelope addressed to:  
Box Non-Fee Amendment  
Assistant Commissioner for Patents,  
Washington, DC 20231

Serial No. 08/967,381

John S. James  
Name: John L. James  
Registration No. 28,724  
Date: June 16, 1999

Filed: November 8, 1997

5

Honorable Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

10

**AMENDMENT**

In response to the Office Action mailed March 16, 1999,  
Paper No. 12, please amend the above-identified application as  
15 follows:

**IN THE CLAIMS**

Please cancel claims 4 and 21, add new claims 29-32 and  
amend claims 1; 7, 8 and 24 as follows:

20

1. (Twice Amended) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected 5 together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement

10 along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof; and

15 locking means for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means being provided as a part of said first member and comprising [an] a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member, and a lug formed integrally with and depending from said overhang and received in said cutout, whereby longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member is prevented.

25  
5 7. (Twice Amended) The track device according to claim [4] 1, wherein said tongue is provided with a hooking element projecting therefrom, and said track base of said first member has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent longitudinal displacement of said first member with respect to said second member, said rear face sloping to facilitate insertion of said tongue into said socket.

8. (Twice Amended) A merchandising track device for displaying articles, said track device comprising:

5 an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; and

10 a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, at least

one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one side wall; and locking means for interconnecting said one upright wall and said one side wall to lock said front piece in position relative to said body, said locking means including [an] a flexible overhang extending rearward from said portion of said one upright wall and disposed over said upper edge of said one sidewall, and a pair of engaging tabs provided for said one upright wall and disposed respectively alongside opposite side surfaces of said one side wall, at least one of said engaging tabs being connected to said overhang, whereby lateral displacement of said one upright wall relative to said one side wall is prevented.

24. (Twice Amended) The track device according to claim [21]  
8, wherein said tongue is provided with a hooking element projecting therefrom, and said deck has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent forward displacement of said front piece with respect to said body, said rear face sloping to facilitate insertion of said tongue into said socket.

29. (New) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof;

15 said second member comprising a tongue extending longitudinally from said track base of said second member, said tongue defining an end of said second member, said first member having an end-

opening socket for receiving said tongue so that said track bases of said first and second members are interconnected, said tongue being formed on said  
20 track base of said second member such that an upper surface of said tongue is disposed below an upper surface of said track base of said second member to allow said upper surface of said track base of said second member and an upper surface of said track base of said first member to form a continuous floor for slidably supporting said articles, wherein said  
25 track base of said first member comprises upper and lower opposed walls, and said socket is defined between said upper and lower walls; and

locking means for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means being provided as a part of said first member and comprising a flexible overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member, and a lug formed integrally with and depending from said overhang and received in said cutout, whereby longitudinal displacement of  
30 said one side wall of said first member relative to said one side wall of said second member is prevented.  
35

30. (New) The track device according to claim 29, wherein said tongue is provided with a hooking element projecting therefrom, and said track base of said first member has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking  
5 element to prevent longitudinal displacement of said first member with respect to said second member, said rear face sloping to facilitate insertion of said tongue into said socket.

31. (New) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said  
5 body, a tongue extending forwardly from said track base and defining said forward end of said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; and

a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for  
10 preventing a leading article in said row from exiting said track device, said

front piece comprising a deck for supporting said leading article, said deck having a socket for receiving said tongue so that said deck and said track base are interconnected, said tongue being formed on said track base such that an upper surface of said tongue is disposed below an upper surface of  
15 said track base to allow said upper surface of said track base and an upper surface of said deck to form a continuous floor for slidably supporting said articles, at least one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said  
20 one side wall; and locking means for interconnecting said one upright wall and said one side wall to lock said front piece in position relative to said body, said locking means including a flexible overhang extending rearward from said portion of said one upright wall and disposed over said upper edge of said one sidewall, and a pair of engaging tabs provided for said one  
25 upright wall and disposed respectively alongside opposite side surfaces of said one side wall, at least one of said engaging tabs being connected to said overhang, whereby lateral displacement of said one upright wall relative to said one side wall is prevented.

32. (New) The track device according to claim 31, wherein  
said tongue is provided with a hooking element projecting therefrom, and  
said deck has a strip portion having front and rear opposed faces, said front  
face providing an edge for engaging said hooking element to prevent  
forward displacement of said front piece with respect to said body, said rear  
face sloping to facilitate insertion of said tongue into said socket.  
5

#### REMARKS

Reconsideration of the claims is respectfully requested. Claims 4 and 21 have been canceled. Claims 1, 7, 8 and 24 have been amended to more particularly define the invention and new claims 29-32 have been added. Claims 1 and 8 are the only independent claim in the application. Claims 1, 3, 7-8, 11-13, 15, 17-20 and 24-28, are presented for reconsideration. Claims 29-32 are presented for initial consideration.

Claim 1 was rejected under 35 U.S.C. 103(a) as being anticipated by Spamer ('336) in view of Wiese. Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese and further in view of Parham et al ('664). Claims 8, 11-13, 15 17 and 18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese and

further in view of Levenberg. Claims 19 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese and further in view of Flum and Carroll. Claims 4, 7, 21 and 24-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese and further in view of Alain and Heinen et al.

These rejections are respectfully traversed.

Claim 1 has been amended to more particularly define the invention. Claim 1 now requires a flexible, locking overhang. The locking overhang is flexible as described on page 12 lines 22-24 of the specification to allow insertion of the tongue into the socket. The overhang must flex otherwise the overhang abuts the sidewall preventing full insertion of the tongue into the socket. The present invention is opposite to Wiese who describes splined connectors in column 6 lines 26-36. Spline connectors cannot be flexible; they must be rigid to maintain tolerances required for the splines to properly engage the grooves. The present invention must have a flexible overhang to laterally manipulate the lug so that an in-line connection can be made to prevent longitudinal extension of the first and second members. Claim 1 departs from the prior art and is believed to be patentable. Claims 3, 7 and 27 depend on claim 1 and are also believed to be patentable.

Claim 8 also requires a flexible overhang and is believed to be patentable. Claims 11-13, 15, 17-20, 24-26 and 28 depend on claim 8 and are also believed to be patentable.

New claims 29-32 require a flexible overhang and further define the tongue and socket. Claims 29-32 are believed to be patentable over the prior art of record.

It is believed that the claims in the application are allowable over the prior art and such allowance is respectfully requested.

Respectfully submitted,

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Application/Control Number: 08/967381

Page 2

Art Unit: 3634

## DETAILED ACTION

It should be noted that the limitation of the claim 26 is taught by reference of Alain and the rejection of claim 26 is indicated on the Office Action Summary. However, the Examiner inadvertently neglected to list claim 26 for any of the grounds of rejection. As the result, the Examiner is withdrawing the finality of the previous Office action in order for the applicant to have a clear understanding of which claims are being rejected. Applicant's response filed on March 15, 1999 has been entered.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 is rejected under 35 U.S.C. 103(a) as being anticipated by Spamer ('336) in view of Wiese. In Figures 1, 1a, 2, and 3, Spamer discloses a merchandising display device comprising a plurality of tracks. Each track is comprised of two discrete structures, track members (1 and 2) that are connected end-to-end lengthwise, each having a track base 11, 12, for carrying articles in a sliding movement; at least one side wall (4, 5, 6) upstanding from the base and aligned to the side wall (4a, 5a, 6a) of the other member; and locking means, comprising longitudinal retention means (13, 14, 15) for connecting the two side walls and preventing longitudinal displacement between the two walls. The longitudinal retention means comprises a part (C) that extends from

*diff from invention  
integrally formed*

Art Unit: 3634

invention was made to incorporate engaging tabs and receiving slots, as taught by Parham et al. ('664), on the outside surfaces of the side walls of Spamer ('336) to make each track a single entity so that a plurality of tracks could be joined together to efficiently to occupy shelf space.

Claim 8, 11-13, 15, 17, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese as applied to claim 1 above, and further in view of Levenberg. Spamer ('336) teaches all of the limitations of these claims with the exception of the locking means comprising engaging tabs disposed on opposing side surfaces of an upright wall and with the exception of engaging tabs being disposed on opposed side surfaces of a lug. In Figures 2 and 9, Levenberg illustrates engaging tabs (60, 61) that are disposed along opposed side surfaces of the wall 10 at vertically offset positions creating a gap of the thickness of an adjacent wall 10 so that the wall may be retained between the offset engaging tabs to prevent lateral displacement of one wall from another. Further, Levenberg demonstrates engaging tabs (60, 61) that are disposed along opposed side surfaces of the wall 10 at vertically offset position creating a gap of the thickness of an adjacent wall 10 so that the wall may be retained between the offset engaging tabs to prevent lateral displacement of one wall from another. To one ordinary skill in the art at the time of the invention was made, it would have been obvious to incorporate engaging tabs, as taught by Levenberg, on the free side ends of the upright wall of Spamer ('336) to eliminate the need for an additional piece to connect the first track member to the second track member and provide protection against lateral displacement along the length of the upright wall and side wall junction; and incorporate engaging tabs on the opposed side surfaces of the lug and upright wall

Art Unit: 3634

the side wall (4, 5, 6) of the first member (1) rearward to the cut out (G1) of the side wall (4a, 5a, 6a) of the second member (2) and is received in that cutout. The second member has a tongue (28, 29) extending longitudinally from the track base 11 to define its forward end and the first member has keyholes designed to receive the irregular tongue (28, 29) of the second member so that the track bases (11, 12) are interconnected to form a continuous floor, see Figures 2 and 3.

Note that Spamer ('336) teaches the limitations of the upright front wall (7, 9) that is extended upwardly and rearwardly in connection with the edge of the side wall. Spamer ('336) did not teach the side wall of the front wall is overhung. Wiese teaches a first member (70) of the merchandise track device having side wall overhang structure with lugs (132) extending rearwardly in connection with the second member (60). Each side wall has an aperture (100) thereof, see Figure 3-8. It would have been obvious matter of providing the cut out (G1) near the front wall and provide the front wall device of Spamer ('336) with an overhang structure having lugs and apertures as taught by Wiese in order to have the front wall member in connection with the cut out there on the sidewall instead of being unitary one piece member.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese as applied to claim 1 above, and further in view of Parham et al. ('664). Spamer ('336) teaches all of the limitations of this claim except lateral retention means that comprise engaging tabs. Parham et al. ('664) disclose engaging tabs (35, 62) on the outside surface of the upright walls (60) of his track 20 for engaging the slots (33, 44) to the side wall (24) of an adjacent track 20. It would have been obvious to one of ordinary skill in the art at the time the

new  
track  
has  
overhang  
structure  
several  
spared  
pieces

Art Unit: 3634

of Spamer ('336), in combination, to make the lug laterally retentive as well as longitudinally retentive.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese as applied to claim 1 above, and further in view of Flum and Carroll. Spamer ('336) discloses all of the limitations of these claims except that the track body and front piece are formed of polystyrene and polycarbonate, respectively. Flum teaches the value of molding a track body of a polystyrene compound in column 8, lines 6-18. Carroll teaches the improvements in appearance and capabilities made possible by molding the front piece of the track base from polycarbonate in column 3, lines 29-45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the track body of Spamer ('336) of a polystyrene compound, as taught by Flum, to provide an optimum sliding surface for the gravity feed system; and to mold the front piece of a polycarbonate, as taught by Carroll, to retain the leading article of the track securely, but in a manner that allowed the front of the product to be completely visible to the customer as a way of attracting the attention of the customer more fully.

Claims 4, 7, 21, and 24-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Spamer ('336) in view of Wiese as applied to claim 1 above, and further in view of Alain and Heinen et al. Spamer ('336) discloses all of the limitations of these claims with the exception of the deck of the first track member being comprised of continuous upper and lower opposed walls defining a socket therebetween to receive the tongue of the second track member which is

Art Unit: 3634

retained in place by a downwardly depending hook element that latches over the edge of the deck.

Alain illustrates a deck comprising upper and lower opposed walls that define a socket

(19, 20) in which the tongue (15, 16) is received in Figure 1. The upper surface of the tongue (15, 16) is disposed below a continuous floor (C) and the lower surface is provided with a hook element (49) that projects downwardly from that surface, see Figures 1 and 4. The end of the socket (19, 20) has an edge for engaging the hook element (49) in section A. Heinen et al. teach an upper surface of a tongue with a hook (38) that disposed in a socket (16) to engage the upper surface of the strip portion edge (24). To one of ordinary skill in the art at the time the invention was made, it would have been obvious to incorporate upper and lower surfaces and a tongue with a hook element, as taught by Alain, and a tongue having a hook that engaged the strip portion, as taught by Heinen in order for the first member to be securely connected to the second member by the hook hooking onto the strip portion in order to provide a secure connection between the two track members while maintaining a continuously level track base.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Jackle, III et al. ('741) and ('236), Jay, Polvere, Yablans et al. are cited to show similar configurations of design.

#### *Response to Arguments*

Applicant's arguments filed March 16, 1999 have been fully considered but they are not persuasive.

Art Unit: 3634

With respect to applicant's remarks on page 4-11, it should be noted that the test for obviousness is what the combination of reference disclosures taken as a whole would have fairly suggested to one of ordinary skill in and not whether specific features can be bodily incorporated from one reference into another. Further, the rational to modify do not have to be expressly stated in the prior art; rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art. Applicant should bear in mind that obviousness cannot be established by attacking references individually when a rejection is based on a combination of references and applicant cannot rely on the specification to impart to the claims limitations otherwise not recited therein. In particular, Examiner cannot find the recitation of "the lug of the locking member received in the cutout that opens to the opposite side surface" according to applicant's indication on page 5, second paragraph. This reliance on specification to interpret the claim is ineffective. Note that Patentability is based on the invention as claimed in view of the teachings of the prior art taken as a whole. The combination of references is proper for any reason taught by the prior art, not just applicant's own reason. Applicant is invited to rewrite the claims in which they are clear and define over the prior arts of the evidence by the rejections above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Friday from 8:00 A.M. to 5:00 P.M. The fax phone number for this Group is (703) 305-3598 or 305-3597.

Application/Control Number: 08/967381

Page 8

Art Unit: 3634

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Khoa Tran

March 27, 1999

Daniel P. Stodola  
Supervisory Patent Examiner  
Group 3600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dennis E. Parham  
Serial Number : 08/967,381  
Filing Date : November 8, 1997  
For : MERCHANDISING DISPLAY TRACK DEVICE  
OF MULTIPLE-PIECE CONSTRUCTION  
  
Art Unit : 3634  
Examiner : Khoa Tran  
Attorney's Docket : D-2958

Box AF

Hon. Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

AMENDMENT AFTER FINAL ACTION

In response to the Office Action dated December 10, 1998, which may be responded to on or before March 10, 1999, entry of the following amendment to the above identified application is requested:

In the Claims:

Cancel Claims 5 and 22 without prejudice.

Amend Claims 4, 21 and 26 as follows:

-- 4. (Twice Amended) A merchandising track device for displaying articles, said track device comprising first and second elongate track members formed separately as two discrete structures, said first and second members being connected together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, said second member ~~comprising~~ a tongue extending longitudinally from said track base of said second member, said tongue defining an end of said second member, said first member having an end-opening socket for receiving said tongue so that said track bases of said first and second members are interconnected, said tongue being formed on said track base of said second member such that an upper surface of said tongue is disposed below an upper surface of said track base of

Serial No.: 08/967,381  
Art Unit: 3634

said second member to allow said upper surface of said track base of said second member and an upper surface of said track base of said first member to form a continuous floor for slidably supporting said articles, wherein said track base of said first member comprises upper and lower opposed walls, and said socket is defined between said upper and lower walls.

21. (Twice Amended) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for supporting a row of articles for sliding movement along said body, and a tongue extending forwardly from said track base and defining said forward end of said body; and

a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece including a deck for supporting said leading article, said deck having a socket for receiving said tongue so that said deck and said track base are interconnected, said tongue being formed on said track base such that an upper surface of said tongue is disposed below an upper surface of said track base to allow said upper surface of said track base and an upper surface of said deck to form a continuous floor for slidably supporting said articles, wherein said deck comprises upper and lower opposed walls, and said socket is defined between said upper and lower walls of said deck.

26. (Twice Amended) The track device according to claim 25, wherein [said deck comprises upper and lower opposed walls for defining therebetween said socket,] said strip portion [being] is provided by said lower wall and extending transversely of said

Serial No.: 08/967,381

Art Unit: 3634

body, said rear face of said strip portion sloping downwardly and rearwardly, said hooking element projecting downwardly from a lower surface of said tongue. --

REMARKS

This amendment is in response to the Final Office Action dated December 10, 1998. All the claims presently pending stand rejected. Because this amendment places the claims in condition for allowance, entry of the amendment after final rejection is believed proper.

In the above amendment, Claims 5 and 22 have been cancelled, Claims 4 and 21 have been amended to include all the limitations of Claims 5 and 22 respectively, and Claim 26 has been amended to be in harmony with Claim 21 as amended. Neither new matter nor new issue is introduced into Claims 4 and 21.

On pages 2 and 3 of the Final Action, Claim 1 was rejected under 35 U.S.C. § 103(a) as being anticipated (emphasis added) by Spamer '336 in view of Wiese. The Examiner stated that Wiese teaches a member 70 having an overhang structure with lugs 132 extending rearward from the side wall and an aperture 100 to connect the first and second members, and that it would have been obvious matter providing the device of Spamer '336 with an overhang structure as taught by Wiese. This rejection is respectfully traversed. It is respectfully submitted that the rejection is improper for the following reasons (A), (B) and (C):

- (A) Due to the Examiner's wording "anticipated", it is not clear whether the rejection is based on the "anticipation" under 35 U.S.C. § 102 or on the "obviousness" under 35 U.S.C. § 103.

Serial No.: 08/967,381  
Art Unit: 3623

In the Claims:

Cancel Claims 2, 6, 9, 10, 14, 16, 23 without prejudice.

Amend Claims 1, 3, 4, 7, 8, 11, 15, 17, 18, 21, 24, 25  
and 26 as follows:

-- 1. (Amended) A merchandising track device for displaying articles, said track device comprising:

first and second elongate track members formed separately as two discrete structures, said first and second members being connected together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, and at least one article-guiding side wall upstanding from said track base of said each member and extending along said each member, said one side wall of said first member being disposed in general longitudinal alignment with said one side wall of said second member and including a portion extending upwardly above an upper edge of said one side wall of said second member, said one side wall of said second member having a cutout opening to said upper edge thereof and to opposite side surfaces thereof; and

locking means for interconnecting said one side wall of said first member and said one side wall of said second member to lock said members in position relative to each other, said locking means being provided as a part of said first member and comprising longitudinal retention means for preventing longitudinal displacement of said one side wall of said first member relative to said one side wall of said second member, an overhang extending rearward from said portion of said one side wall of said first member and disposed over said upper edge of said one side wall of said second member, and a lug depending from said overhang and received in said cutout, whereby longitudinal displacement of said

first member is inhibited

one side wall of said first member relative to said one side wall of said second member is prevented.

3. (Amended) The track device according to claim ~~1~~ 1, wherein said locking means further comprises ~~lateral retention means for preventing lateral displacement of said one side wall of said first member relative to said one side wall of said second member, said lateral retention means comprising~~ a pair of engaging tabs provided for said first member, said engaging tabs being disposed respectively alongside said opposite side surfaces of said one side wall of said second member, and at least one of said engaging tabs is formed on said lug, whereby lateral displacement of said one side wall of said first member relative to said one side wall of , said second member is prevented.

4. (Amended) A merchandising track device for displaying articles, said track device comprising first and second elongate track members formed separately as two discrete structures, said first and second members being connected together in an end-to-end, longitudinally adjacent relationship, each of said members comprising a track base for carrying articles for sliding movement along said each member, said second member comprising a tongue extending longitudinally from said track base of said second member, said tongue defining an end of said second member, said first member having an end opening socket for receiving said tongue so that said track bases of said first and second members are interconnected, said tongue being formed on said track base of said second member such that an upper surface of said tongue is disposed below an upper surface of said track base of said second member to allow said upper surface of said track base of said second member and an upper surface of said track base of said first member to form a continuous floor for slidably supporting said articles.

Serial No.: 08/967,381  
Art Unit: 3623

7. (Amended) The track device according to claim [6] [4], wherein said tongue is provided with a hooking element projecting therefrom, and said track base of said first member has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent longitudinal displacement of said first member with respect to said second member, said rear face sloping to facilitate insertion of said tongue into said socket.

8. (Amended) A merchandising track device for displaying articles, said track device comprising:

an elongate body having a forward end, said body comprising a track base for carrying a row of articles for sliding movement along said body, and at least one article-guiding side wall upstanding from said track base and extending along said body; and

a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece comprising a deck for supporting said leading article, at least one upright wall upstanding from said deck and disposed in general longitudinal alignment with said one side wall, said one upright wall including a portion extending upwardly above an upper edge of said one side wall, and locking means for interconnecting said one upright wall and said one side wall to lock said front piece in position relative to said body, said locking means including an overhang extending rearward from said portion of said one upright wall and disposed over said upper edge of said one side wall, and a pair of engaging tabs provided for said one upright wall and disposed respectively alongside opposite side surfaces of said one side wall, at least one of said engaging tabs being connected to said

Serial No.: 08/967,381

Art Unit: 3623

overhang, whereby lateral displacement of said one upright wall relative to said one side wall is prevented.

11. (Amended) The track device according to claim [10] 8, wherein said engaging tabs are disposed with a lateral gap therebetween to receive in said gap an edge of said one side wall.

15. (Amended) The track device according to claim [14] 8, wherein said one side wall has a cutout opening to said upper edge and said opposite side surfaces thereof, said locking means further includes [formed along an upper edge thereof, and said longitudinal retention means comprises an overhang extending rearward from said one upright wall along said upper edge of said one side wall, and] a lug depending from said overhang and received in said cutout so that longitudinal displacement of said one upright wall relative to said one side wall is prevented, and said at least one engaging tab is formed on said lug.

17. (Amended) The track device according to claim [16] 15, wherein said lug has a thickness greater than a thickness of said one side wall, and both said engaging tabs are formed on said lug.

18. (Amended) The track device according to claim [16] 15, wherein one of said engaging tabs is formed on said lug and the other tab is formed on said one upright wall.

21. (Amended) A merchandising track device for displaying articles, ~~said track device comprising:~~

~~an elongate body having a forward end, said body comprising a track base for supporting a row of articles for sliding movement along said body, and a tongue extending forwardly~~

from said track base and defining said forward end of said body; and

~~a front piece formed as a discrete structure separate from said body and attached to said forward end of said body to provide a stopper for preventing a leading article in said row from exiting said track device, said front piece including a deck for supporting said leading article, said deck having a socket for receiving said tongue so that said deck and said track base are interconnected, said tongue being formed on said track base such that an upper surface of said tongue is disposed below an upper surface of said track base to allow said upper surface of said track base and an upper surface of said deck to form a continuous floor for slidably supporting said articles.~~ *[s]aid front piece.*

24. (Amended) The track device according to claim ~~23~~ [21], wherein said tongue is provided with a hooking element projecting therefrom, and said deck has a strip portion having front and rear opposed faces, said front face providing an edge for engaging said hooking element to prevent forward displacement of said front piece with respect to said body, said rear face sloping to facilitate insertion of said tongue into said socket.

25. (Amended) The track device according to claim 24, wherein [said hooking element projects downwardly from a lower surface of said tongue, and] said engaging edge of said deck extends transversely of said body.

26. (Amended) The track device according to claim 25, wherein said deck comprises upper and lower opposed walls for defining therebetween said socket, [said lower wall including a] said strip portion being provided by said lower wall and extending transversely of said body, [said strip portion having front and

~~rear opposed faces, said front face providing said engaging edge, ]  
said rear face of said strip portion sloping downwardly and  
rearwardly [to facilitate insertion of said tongue into said  
socket], said hooking element projecting downwardly from a lower  
surface of said tongue.~~ --

Add the following new Claims 27 and 28:

27. The track device according to claim 7, wherein said tongue is formed with at least one notch for dividing said tongue into plural portions so that one of said plural portions exhibits substantial flexibility, and said one of said plural portions is provided with said hooking element.

28. The track device according to claim 24, wherein said tongue is formed with at least one notch for dividing said tongue into plural portions so that one of said plural portions exhibits substantial flexibility, and said one of said plural portions is provided with said hooking element.

REMARKS

This patent application presently includes Claims 1-26, of which Claims 1-25 stand rejected.

Specification

In the Office Action, the Examiner reminded Applicant of the proper language and format for an abstract of the disclosure. The legal phraseology "means" in the "Abstract of the Disclosure" section was particularly noted. In response to this reminder, all the legal phraseologies which should be avoided have been replaced by other more appropriate language.

The disclosure was objected to because of several informalities on different pages. In response to this objection,